## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order is made under the Carriage by Air Act, 1932, the provisions of which give effect to the Warsaw Convention. The Order extends certain rules of the Convention relating to international carriage by air to the territories mentioned in the Second Schedule to the Order. It replaces consolidates and revokes the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934, and certain other related Orders made under the Act.

---

# 1953 No. 1206

# The Carriage by Air (Non-international Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953

| | |
|---|---|
| *Made* - - - - | 1*st August*, 1953 |
| *Laid before Parliament* | 4*th August*, 1953 |
| *Coming into Operation* | 1*st October*, 1953 |

At the Court at Buckingham Palace, the 1st day of August, 1953

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is expedient that the provisions of the First Schedule to the Carriage by Air Act, 1932(**a**), and the provisions of subsections (4) and (5) of section one of the Act, shall extend with certain exceptions, adaptations and modifications to the territories mentioned in the Fourth Schedule to this Order in respect of carriage by air, not being international carriage by air as defined in the said First Schedule:

Now, therefore, Her Majesty, in pursuance of the powers conferred upon Her by the said Act, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Short title and commencement*

**1.**—(1) This Order may be cited as the Carriage by Air (Non-international Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953.

(2) This Order shall come into force on the first day of October, 1953.

*Interpretation*

**2.**—(1) In this Order, unless the context otherwise requires—

"Governor of a territory" means the officer for the time being administering the Government of that territory;

"The Act" means the Carriage by Air Act, 1932;

---

(a) 22 & 23 Geo. 5. c. 36.

"The East African Territories" means the Colony and Protectorate of Kenya, the Trust Territory of Tanganyika and the Uganda Protectorate;

"The High Commission" means the East Africa High Commission established by the East Africa (High Commission) Orders in Council, 1947 to 1953(a);

"Territory" means any of the territories to which this Order applies in accordance with the provisions of Article 6 of this Order.

(2) The Interpretation Act, 1889(b), shall apply for the purposes of the interpretation of this Order as it applies for the purposes of the interpretation of an Act of Parliament and as if this Order were an Act of Parliament.

*Application of First Schedule to Carriage by Air Act, 1932, to non-international carriage*

**3.** Subject to the provisions of Article 5 of this Order, the provisions of the First Schedule to the Act, adapted and modified as set out in the Second Schedule to this Order, shall apply to all carriage by air, not being international carriage by air as defined in the First Schedule to the Act.

*Application of section 1 (4) and (5) of Carriage by Air Act, 1932, to non-international carriage*

**4.** The provisions of subsections (4) and (5) of section one of the Act, adapted and modified as set out in the First Schedule to this Order, shall apply to the carriage by air specified in Article 3 of this Order.

*Power to restrict application of Order*

**5.** The Governor of a territory may by writing direct that the provisions (in whole and not in part) of this Order, in relation to that territory, shall not apply to any carriage by air, or to any class of carriage by air, and any such direction may be expressed to be, and if so expressed shall take effect, subject to any conditions or limitations which in the circumstances of the case appear to the Governor to be required.

*Application of Article 5 of the Order to the East African Territories*

**6.** Article 5 of this Order shall have effect in relation to each of the East African Territories as if for references in the said section to the Governor there were substituted references to the High Commission.

*Application of Order*

**7.** This Order shall apply to the territories mentioned in the Fourth Schedule to this Order.

*W. G. Agnew.*

---

(a) S.R. & O. 1947/2863; Rev. XI, p. 695; 1947 I, p. 758; S.I. 1951/2126; 1953/975: 1951 I, p. 1222; 1953 I, p. 584.
(b) 52 & 53 Vict. c. 63.

## SCHEDULES

Article 4

### First Schedule

Section 1—(4) Any liability imposed by Article 17 of the First Schedule to the Act as applied by this Order on a carrier in respect of the death of a passenger shall be in substitution for any liability of the carrier in respect of the death of that passenger either under any enactment or at common law, and the provisions of the Second Schedule to the Act adapted and modified as set out in the Third Schedule to this Order shall have effect with respect to the persons by and for whose benefit the liability so imposed is enforceable and with respect to the manner in which it may be enforced.

(5) Any sum in francs mentioned in Article 22 of the First Schedule to the Act as applied by this Order shall, for the purposes of any action against a carrier, be converted into sterling, or its equivalent in the local currency, at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the Court.

Article 3

### Second Schedule

### Chapter I

### Scope

*Article* 1

(1) This Schedule applies to all carriage of passengers, luggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

*Article* 2

(2) This Schedule does not apply to the carriage of postal packets performed under the terms of any international postal convention nor to the carriage of postal packets as defined in the Post Office Acts, 1908 to 1940(a).

### Chapter II

### Documents of Carriage

### Air Consignment Note

*Article* 5

(1) Every carrier of cargo has the right to require the consignor to make out and hand over to him an air consignment note.

(2) The absence or loss of this document does not affect the existence or the validity of the contract of carriage which shall be none the less governed by the provisions of this Schedule.

*Article* 7

The carrier of cargo has the right to require the consignor to make out separate consignment notes when there is more than one package.

*Article* 10

(1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air consignment note, if any.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the incorrectness or incompleteness of the said particulars and statements.

(a) 8 Edw. 7. c. 48; 5 & 6 Geo. 5. c. 82; 10 & 11 Geo. 5. c. 40; 25 & 26 Geo. 5. c. 15; 3 & 4 Geo. 6. c. 25.

*Article* 11

(1) The air consignment note, if any, is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

(2) Any statements in an air consignment note relating to the weight, dimensions and packing of the cargo, or relating to the number of packages, are *prima facie* evidence of the facts stated; any such statements relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment notes to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

*Article* 12

(1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of departure or destination, or by stopping it in the course of the carriage on any landing, or by calling for it to be delivered at the place of destination or in the course of the carriage to a person other than the original consignee or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is not reasonably practicable to carry out the orders of the consignor the carrier must so inform him forthwith.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the air consignment note, if any, or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

*Article* 13

(1) Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of the contract of carriage.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

*Article* 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

*Article* 15

(1) Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by special contract in writing between the parties.

*Article* 16

(1) The consignor must furnish such information and documents as are necessary to meet the formalities of customs, octroi or police, before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any

damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his servants or agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

## 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 luggage 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 luggage 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 the performance of a contract for carriage by air, for the purpose of loading, delivery or trans-shipment, 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, luggage or cargo to the extent of the amount of any such damage which may be proved to have been sustained by reason of such delay or of an amount representing double the sum paid for the carriage, whichever amount may be the smaller:

Provided that—

(i) The carrier may by special contract in writing expressly exclude, increase or decrease the limit of his liability as above provided; and

(ii) Nothing in this Article shall be deemed to affect any rule of law relating to remoteness of damage.

### *Article* 20

(1) The carrier is not liable if he proves that he and his servants or agents have taken all reasonable measures to avoid the damage or that it was not reasonably possible 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) Subject to the provisions of paragraph (4) of this Article, in the carriage of passengers the liability of the carrier in respect of injury to (including injury resulting in the death of) any passenger is limited to the sum of 125,000 francs. In a case where damages are awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs.

(2) Subject to the provisions of paragraph (4) of this Article, in the carriage of luggage of which the carrier takes charge and of cargo the liability of the carrier in respect of destruction, loss or damage is limited to a sum of 250 francs per kilogram.

(3) Subject to the provisions of paragraph (4) of this Article, as regards objects of which the passenger takes charge himself the liability of the carrier in respect of destruction, loss or damage is limited to 5,000 francs per passenger.

(4) With respect to the carriage referred to in paragraphs (1), (2) and (3) of this Article the carrier and the passenger or the carrier and the consignor, as the case may be, may by special contract in writing agree to a limit of liability higher than that specified in those paragraphs.

(5) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams of gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

*Article* 23

Any provision in a contract of carriage tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Schedule otherwise than in accordance with the provisions of this Schedule 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 Schedule.

*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 Schedule.

(2) In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to any question as to who are the persons who have the right to bring such an action and what are their respective rights.

*Article* 25

(1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any servant or agent of the carrier acting within the scope of his employment unless the carrier proves that the wilful misconduct of his servant or agent took place without his actual fault or privity.

*Article* 26

(1) Receipt by the person entitled to delivery of luggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the contract 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 three days from the date of receipt in the case of luggage and seven 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 fourteen days from the date on which the luggage or cargo has been placed at his disposal.

(3) Every complaint must be made by 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 Schedule against those legally representing his estate.

*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, each carrier who accepts passengers, luggage or cargo shall be bound by the provisions of this Schedule, 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 luggage 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.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

*Article* 31

(1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from agreeing to special conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

*Article* 32

Any provision contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule by deciding the law to be applied shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Schedule.

*Article* 33

Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making stipulations which do not conflict with the provisions of this Schedule.

First Schedule

THIRD SCHEDULE

PROVISIONS AS TO LIABILITY OF CARRIER IN THE EVENT OF THE DEATH OF A PASSENGER

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this paragraph the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild.

Provided that, in deducing any such relationship as aforesaid, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother, and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding paragraph enforceable, but only one action shall be brought in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in the territory or, not being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding paragraph, the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) directs.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule to the Act as applied by this Order limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside the territory in respect of the death of the passenger in question.

Article 6

FOURTH SCHEDULE

TERRITORIES TO WHICH THIS ORDER APPLIES

Aden (Colony and Protectorate)
Bahamas
Barbados
Basutoland
Bechuanaland Protectorate
Bermuda
British Guiana
British Honduras
British Solomon Islands Protectorate
Cyprus
Falkland Islands and Dependencies
Fiji
Gambia (Colony and Protectorate)
Gibraltar
Gilbert and Ellice Islands Colony
Gold Coast—
- (*a*) Colony
- (*b*) Ashanti
- (*c*) Northern Territories
- (*d*) Togoland under United Kingdom trusteeship

Hong Kong
Jamaica (including Turks and Caicos Islands and the Cayman Islands)
Kenya (Colony and Protectorate)
Leeward Islands—
- Antigua
- Montserrat
- St. Christopher, Nevis and Anguilla
- Virgin Islands

Malta
Mauritius
Nigeria—
- (*a*) Colony
- (*b*) Protectorate
- (*c*) Cameroons under United Kingdom trusteeship

North Borneo
Northern Rhodesia
Nyasaland Protectorate
St. Helena and Dependencies
Sarawak
Settlements of Penang and Malacca
Seychelles
Sierra Leone (Colony and Protectorate)
Singapore
Somaliland Protectorate
Swaziland Protectorate
Trust Territory of Tanganyika
Trinidad and Tobago
Uganda Protectorate
Windward Islands—
- Dominica
- Grenada
- St. Lucia
- St. Vincent

Zanzibar Protectorate

## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order applies subsections (4) and (5) of section 1 of the Carriage by Air Act, 1932, and the provisions of the First Schedule to that Act, subject to certain adaptations and modifications, to carriage by air which is not international carriage as defined in the First Schedule to that Act. The provisions of this Order apply to the territories mentioned in the Fourth Schedule to the Order.

---

# 1953 No. 1675

# The Carriage by Air (Parties to Convention) (No. 4) Order, 1953

*Made - - - - 19th November,* 1953

At the Court at Buckingham Palace, the 19th day of November, 1953

Present.

The Queen's Most Excellent Majesty in Council

Whereas the accession of Japan to the Convention signed at Warsaw on the twelfth day of October, 1929, for the unification of certain rules relating to international carriage by air has been duly notified pursuant to paragraph (2) of Article 38 of the said Convention and has taken effect in accordance with paragraph (3) of that Article as from the eighteenth day of August, one thousand nine hundred and fifty-three;

Now, therefore, Her Majesty is pleased, by and with the advice of Her Privy Council, and in the exercise of the powers conferred by subsection (2) of Section one of the Carriage by Air Act, 1932(a), to order, and it is hereby ordered, as follows:—

**1.** It is hereby certified that Japan is a High Contracting Party to the said Convention in respect of Japan.

**2.** It is hereby further certified that Japan has not availed itself of the provisions of the Additional Protocol to the said Convention.

**3.**—(1) This Order may be cited as the Carriage by Air (Parties to Convention) (No. 4) Order, 1953.

(2) The Carriage by Air (Parties to Convention) Order, 1951(b), the Carriage by Air (Parties to Convention) (No. 2) Order, 1952(c), the Carriage by Air (Parties to Convention) (No. 3) Order, 1952(d), and this Order may be cited together as the Carriage by Air (Parties to Convention) Orders, 1951 to 1953.

*W. G. Agnew.*

---

(a) 22 & 23 Geo. 5. c. 36.
(b) S.I. 1951/1386; 1951 I, p. 229.
(c) S.I. 1952/1344; 1952 I, p. 558.
(d) S.I. 1952/2105; 1952 I, p. 560.