Civil Aviation (Carriers’ Liability) Act 1959

Act No. 2 of 1959 as amended

This compilation was prepared on 1 July 2007 taking into account amendments up to Act No. 21 of 2007

The text of any of those amendments not in force on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing, Attorney-General’s Department, Canberra
# Contents

## Part I—Preliminary

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Short title [see Note 1]</td>
</tr>
<tr>
<td>2</td>
<td>Commencement [see Note 1]</td>
</tr>
<tr>
<td>5A</td>
<td>Application of the <em>Criminal Code</em></td>
</tr>
<tr>
<td>6</td>
<td>Extension to Territories</td>
</tr>
<tr>
<td>7</td>
<td>Act to bind Crown</td>
</tr>
<tr>
<td>8</td>
<td>Texts of Conventions</td>
</tr>
<tr>
<td>9</td>
<td>Conversion of SDR to Australian dollars</td>
</tr>
</tbody>
</table>

## Part II—Carriage to which the Warsaw Convention and the Hague Protocol apply

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Definition</td>
</tr>
<tr>
<td>11</td>
<td>Convention to have force of law</td>
</tr>
<tr>
<td>11A</td>
<td>Limitation of liability for Australian international carriers</td>
</tr>
<tr>
<td>12</td>
<td>Liability in respect of death</td>
</tr>
<tr>
<td>13</td>
<td>Liability in respect of injury</td>
</tr>
<tr>
<td>14</td>
<td>Certain liabilities not excluded</td>
</tr>
<tr>
<td>15</td>
<td>Proceeds of insurance policies etc.</td>
</tr>
<tr>
<td>16</td>
<td>Contributory negligence</td>
</tr>
<tr>
<td>17</td>
<td>Actions against Parties to the Convention who undertake carriage by air</td>
</tr>
<tr>
<td>18</td>
<td>Evidence of certain matters</td>
</tr>
<tr>
<td>19</td>
<td>Jurisdiction of State courts preserved</td>
</tr>
</tbody>
</table>

## Part III—Carriage to which the Warsaw Convention without the Hague Protocol applies

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Interpretation</td>
</tr>
<tr>
<td>21</td>
<td>Provisions of Convention to have force of law</td>
</tr>
<tr>
<td>21A</td>
<td>Limitation of liability for Australian international carriers</td>
</tr>
<tr>
<td>22</td>
<td>Evidence of certain matters</td>
</tr>
<tr>
<td>23</td>
<td>Conversion of francs</td>
</tr>
<tr>
<td>24</td>
<td>Adoption of certain provisions of Part II</td>
</tr>
<tr>
<td>24A</td>
<td>Jurisdiction of State courts preserved</td>
</tr>
<tr>
<td>25</td>
<td>Duration of Part [see Note 2]</td>
</tr>
</tbody>
</table>

## Part IIIA—Carriage to which the Guadalajara Convention applies

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>25A</td>
<td>Provisions of Convention to have force of law</td>
</tr>
<tr>
<td>25B</td>
<td>Modification of Parts II and III</td>
</tr>
<tr>
<td>25C</td>
<td>Evidence of certain matters</td>
</tr>
</tbody>
</table>
### Part IIIB—Carriage to which the Montreal No. 3 Convention applies

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>(ss. 25D-25H) Not in operation—see Note 3</td>
<td>16</td>
</tr>
</tbody>
</table>

### Part IIIC—Carriage to which the Montreal No. 4 Convention applies

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Interpretation</td>
<td>17</td>
</tr>
<tr>
<td>25J</td>
<td>Effect of Convention in Australia</td>
<td>17</td>
</tr>
<tr>
<td>25K</td>
<td>Application of certain provisions of Part IV</td>
<td>17</td>
</tr>
<tr>
<td>25L</td>
<td>Jurisdiction of State courts preserved</td>
<td>17</td>
</tr>
<tr>
<td>25M</td>
<td>Evidence of certain matters</td>
<td>17</td>
</tr>
</tbody>
</table>

### Part IV—Other carriage to which this Act applies

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>Interpretation</td>
<td>19</td>
</tr>
<tr>
<td>27</td>
<td>Application of Part [see Note 3]</td>
<td>20</td>
</tr>
<tr>
<td>28</td>
<td>Liability of the carrier for death or injury</td>
<td>21</td>
</tr>
<tr>
<td>29</td>
<td>Liability of the carrier in respect of baggage</td>
<td>21</td>
</tr>
<tr>
<td>30</td>
<td>Complaint to be made in respect of baggage</td>
<td>22</td>
</tr>
<tr>
<td>31</td>
<td>Limitation of liability</td>
<td>23</td>
</tr>
<tr>
<td>32</td>
<td>Contracting out</td>
<td>26</td>
</tr>
<tr>
<td>33</td>
<td>Servants and agents of carrier</td>
<td>26</td>
</tr>
<tr>
<td>34</td>
<td>Limitation of actions</td>
<td>26</td>
</tr>
<tr>
<td>35</td>
<td>Liability in respect of death</td>
<td>27</td>
</tr>
<tr>
<td>36</td>
<td>Liability in respect of injury</td>
<td>28</td>
</tr>
<tr>
<td>37</td>
<td>Certain liabilities not excluded</td>
<td>28</td>
</tr>
<tr>
<td>38</td>
<td>Proceeds of insurance policies etc</td>
<td>29</td>
</tr>
<tr>
<td>39</td>
<td>Contributory negligence</td>
<td>29</td>
</tr>
<tr>
<td>40</td>
<td>Regulations relating to passenger tickets and baggage checks</td>
<td>30</td>
</tr>
<tr>
<td>41</td>
<td>Application of Part to cargo</td>
<td>30</td>
</tr>
</tbody>
</table>

### Part IVA—Carriers to be insured against liability to passengers for death or personal injury

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>41A</td>
<td>Object of Part</td>
<td>31</td>
</tr>
<tr>
<td>41B</td>
<td>Definitions</td>
<td>31</td>
</tr>
<tr>
<td>41C</td>
<td>Carriers may be required to produce evidence that an acceptable contract of insurance is in force between the carrier and an insurer</td>
<td>32</td>
</tr>
<tr>
<td>41CA</td>
<td>Carrier that is, or is an agent of, the Crown may be required to show that adequate financial arrangements exist to discharge personal injury liability of the carrier</td>
<td>33</td>
</tr>
<tr>
<td>41D</td>
<td>Insurer's liability not affected by exclusions or breaches</td>
<td>33</td>
</tr>
<tr>
<td>41E</td>
<td>Carriers to be covered by acceptable insurance</td>
<td>33</td>
</tr>
<tr>
<td>41F</td>
<td>Conduct by directors, servants and agents</td>
<td>34</td>
</tr>
<tr>
<td>41G</td>
<td>Grounds of cancellation of contract of insurance not affected</td>
<td>35</td>
</tr>
</tbody>
</table>
Part V—Miscellaneous

41H Conflict of laws ................................................................. 36
41J Injunctions .......................................................................... 36
41K Regulations ....................................................................... 37
41L Delegation ........................................................................... 37
41M Saving ................................................................................ 38

Schedules

Schedule 1—Convention for the unification of certain rules relating to international carriage by air

Chapter I—Scope—Definitions .................................................. 41
Chapter II—Documents of Carriage .......................................... 42
Chapter III—Liability of the Carrier ......................................... 47
Chapter IV—Provisions Relating to Combined Carriage .......... 51
Chapter V—General and Final Provisions ................................. 51

Schedule 2—The Warsaw Convention as amended at the Hague

Chapter II—Documents of Carriage .......................................... 56
Chapter III—Liability of the Carrier ......................................... 61
Chapter IV—Provisions Relating to Combined Carriage .......... 65
Chapter V—General and Final Provisions ................................. 66
Chapter I—Amendments to the Convention .............................. 68
Chapter II—Scope of Application of the Convention as Amended .......................................................... 68
Chapter III—Final Clauses ....................................................... 68

Schedule 3—Convention ............................................................ 72

Schedule 4—The Montreal No. 3 Convention

Chapter I—Scope—Definitions .................................................. 78
Chapter II—Documents of Carriage .......................................... 79
Chapter III—Liability of the Carrier ......................................... 84
Chapter IV—Provisions Relating to Combined Carriage .......... 90
An Act relating to Carriage by Air

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the Civil Aviation (Carriers’ Liability) Act 1959.

2 Commencement [see Note 1]

(1) Parts I, III and V shall come into operation on the day on which this Act receives the Royal Assent.

(2) Parts II and IV shall come into operation on such dates as are respectively fixed by Proclamation.

5 Interpretation

In this Act, unless the contrary intention appears:

Australia includes the Territories.

Australian citizen has the same meaning as in the Australian Citizenship Act 2007.

Australian person means:
(a) an individual who is an Australian citizen or is ordinarily resident in Australia; or
(b) the Commonwealth, a State or a Territory; or
(c) a person who is a nominee of the Commonwealth or of a State or a Territory; or
(d) a Commonwealth, State or Territory authority; or
(e) a person who is a nominee of a Commonwealth, State or Territory authority; or
(f) a local government body (whether incorporated or not) formed by or under a law of a State or a Territory; or
(g) a person who is a nominee of a local government body referred to in paragraph (f); or
Part I Preliminary

Section 5

(h) a body corporate that:
   (i) is incorporated by or under a law of the Commonwealth or of a State or a Territory; and
   (ii) is substantially owned and effectively controlled by persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (i); or
(i) a person in the capacity of a trustee, or manager, of a fund in which the total interests (if any) of persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) represent 60% or more of the total interests in the fund.

SDR means Special Drawing Rights within the meaning of the International Monetary Agreements Act 1947.

the Guadalajara Convention means the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier opened for signature at Guadalajara on 18 September 1961.

the Guatemala City Protocol means the Protocol done at Guatemala City on 8 March 1971 and called “Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955”.


the Montreal Protocol No. 3 means the Protocol done at Montreal on 25 September 1975 and called “Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocols Done at The Hague on 28 September 1955 and at Guatemala City on 8 March 1971”.

the Montreal Protocol No. 4 means the Protocol done at Montreal on 25 September 1975 and called “Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as amended by the Protocol Done at The Hague on 28 September 1955”.

the Montreal No. 4 Convention means the Convention that is, under Article XV of the Montreal Protocol No. 4, known as the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

the Warsaw Convention means the Convention for the Unification of Certain Rules Relating to International Carriage by Air opened for signature at Warsaw on 12 October 1929, and includes the Additional Protocol to that Convention with reference to Article 2 of that Convention.


5A Application of the Criminal Code

Chapter 2 (except Part 2.5) of the Criminal Code applies to all offences created by this Act.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

6 Extension to Territories

This Act extends to every Territory.

7 Act to bind Crown

(1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

(2) Nothing in this Act makes the Crown in any capacity liable to be prosecuted for an offence.
8 Texts of Conventions

(1) For the purposes of this Act, but subject to subsection (2), the text of a Convention specified in any of the following paragraphs is taken to be the text set out in the Schedule specified in that paragraph:
   (a) Schedule 1—the Warsaw Convention;
   (b) Schedule 2—the Warsaw Convention as amended at The Hague;
   (c) Schedule 3—the Guadalajara Convention;
   (d) Schedule 4—the Montreal No. 3 Convention;
   (e) Schedule 5—the Montreal No. 4 Convention.

(2) If there is any inconsistency between the text of a Convention as set out in a Schedule and the text that would result if the authentic French texts of the instruments making up the Convention were read and interpreted together as one single instrument, the latter text prevails.

(3) A certificate signed by the Secretary of the Department of Foreign Affairs and Trade that a document to which the certificate is annexed is a true copy of the authentic French text of the Warsaw Convention, the Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, the Montreal Protocol No. 3 or the Montreal Protocol No. 4 is evidence that the document is such a true copy.

9 Conversion of SDR to Australian dollars

In assessing under this Act the damages recoverable in an action against a carrier, a court must convert all relevant SDR amounts into Australian dollars, using the exchange rate published by the Reserve Bank of Australia, being the rate that applies as at the day on which the court’s judgment is given.
Part II—Carriage to which the Warsaw Convention and the Hague Protocol apply

10 Definition

In this Part:

the Convention means the Warsaw Convention as amended at The Hague.

11 Convention to have force of law

(1) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

11A Limitation of liability for Australian international carriers

(1) Despite the terms of paragraph 1 of Article 22 of the Convention, but subject to the regulations relating to passenger tickets, the liability of an Australian international carrier under this Part in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

(a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or

(b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or

(c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or
Part II  Carriage to which the Warsaw Convention and the Hague Protocol apply

Section 12

(d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.

(2) In this section:

Australian international carrier means:

(a) a carrier designated, nominated or otherwise authorised by Australia under a bilateral arrangement to operate scheduled international air services; or

(b) a carrier operating a non-scheduled international flight permitted under section 15D of the Air Navigation Act 1920 and who is an Australian person.

bilateral arrangement has the same meaning as in section 11A of the Air Navigation Act 1920.

12 Liability in respect of death

(1) The provisions of this section apply in relation to liability imposed by the Convention on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

(2) Subject to section 14, the liability under the Convention is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3) Subject to the next succeeding subsection, the liability is enforceable for the benefit of such of the members of the passenger’s family as sustained damage by reason of his death.

(4) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5) For the purposes of subsection (3), the members of the passenger’s family shall be deemed to be the wife or husband, de facto spouse,
parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger’s family, an illegitimate person or an 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 adoptors.

(6) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in Australia in respect of the death of any one passenger, and the action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9) Subject to the next succeeding subsection, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10) The court 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 Convention limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

(11) The second sentence of paragraph 4 of Article 22 of the Warsaw Convention, as amended by the Hague Protocol, shall not be construed as applying to an action to which this section applies that is wholly or partly for the benefit of a person or persons other than the plaintiff, but the court may, in such an action, deal with any
13 Liability in respect of injury

Subject to the next succeeding section, the liability of a carrier under the Convention in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

14 Certain liabilities not excluded

Nothing in the Convention or in this Part shall be deemed to exclude any liability of a carrier:

(a) to indemnify an employer of a passenger or any other person in respect of any liability of, or payments made by, that employer or other person under a law of the Commonwealth or of a State or Territory providing for compensation, however described, in the nature of workers’ compensation; or

(b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger; but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with the Convention.

15 Proceeds of insurance policies etc.

In assessing damages in respect of liability under the Convention there shall not be taken into account by way of reduction of the damages:

(a) a sum paid or payable on the death of, or personal injury to, a passenger under a contract of insurance;

(b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;

(c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
Section 16

(d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
(e) in the case of death, a premium that would have become payable under a contract of insurance in respect of the life of the deceased passenger if he had lived after the time at which he died.

16 Contributory negligence

(1) Effect shall be given to Article 21 of the Warsaw Convention in accordance with the provisions of this section.

(2) If, in an action against a carrier under the Convention, the carrier proves that the damage was caused by or contributed to by the negligence of the passenger or the consignor, the damages recoverable shall be assessed in accordance with this section.

(3) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with the Convention and there had been no negligence on the part of the passenger or consignor.

(4) The damages determined under the last preceding subsection shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger or the consignor in the responsibility for the damage.

(5) If the damages as reduced in accordance with the last preceding subsection exceed the maximum liability of the carrier fixed by or in accordance with the Convention, the court shall further reduce the damages to that maximum amount.

(6) Where any case to which subsection (2) applies is tried with a jury, the jury shall determine the damages referred to in subsection (3) and the amount of the reduction under subsection (4).
Part II  Carriage to which the Warsaw Convention and the Hague Protocol apply

Section 17

17  Actions against Parties to the Convention who undertake carriage by air

(1) A Party to the Convention which has not availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention shall, for the purposes of an action under the Convention brought in a court in Australia to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court.

(2) Nothing in this section authorizes the issue of execution against the property of a Party to the Convention.

18  Evidence of certain matters

(1) The Minister may, by notice published in the Gazette, from time to time declare:

(a) that a country specified in the notice is a country which has ratified or adhered to the Hague Protocol and the date on which the ratification or adherence became effective;

(b) that a country specified in the notice has, at the time of deposit of its instrument of ratification of or adherence to the Hague Protocol, declared that its acceptance of that Protocol does not apply to a territory or territories specified in the notice;

(c) that a country specified in the notice has duly made a declaration under Article XXVI of the Hague Protocol and the date on which the declaration became effective;

(d) that a country specified in the notice has duly extended the application of the Hague Protocol to a territory or territories specified in the notice;

(e) the extent (if any) to which a Party to the Hague Protocol has availed itself of the provisions of the Additional Protocol to the Warsaw Convention with reference to Article 2 of that Convention; or

(f) that a country specified in the notice has denounced the Hague Protocol in respect of all of the territories for the foreign relations of which that country is responsible or in respect of any such territory specified in the notice, and the date upon which the denunciation became effective.
(2) A notice in force under this section is evidence of the matters declared.

19 Jurisdiction of State courts preserved

For the purposes of section 38 of the *Judiciary Act 1903*, an action under the Convention shall be deemed not to be a matter arising directly under a treaty.
Part III—Carriage to which the Warsaw Convention without the Hague Protocol applies

20 Interpretation

(1) In this Part, the *Convention* means the Warsaw Convention as in force, unaffected by the Hague Protocol, between Australia and any other countries.

(2) For the purposes of this Part, a reference in the Convention to the territory of a High Contracting Party to the Convention shall be read as a reference to the territories in respect of which a Party declared, in pursuance of section 22, to be a High Contracting Party to the Convention is declared, in pursuance of that section, to be bound by the Convention.

21 Provisions of Convention to have force of law

(1) The provisions of the Convention have, subject to this Part, the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) A reference in this Part to the Convention shall, unless the contrary intention appears, be read as a reference to the provisions of the Convention as having the force of law by virtue of this section.

21A Limitation of liability for Australian international carriers

(1) Despite the terms of paragraph 1 of Article 22 of the Convention, but subject to the regulations relating to passenger tickets, the liability of an Australian international carrier under this Part in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

(a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or

(b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the...
purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or
(c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or
(d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.

(2) In this section:

*Australian international carrier* means:

(a) a carrier designated, nominated or otherwise authorised by Australia under a bilateral arrangement to operate scheduled international air services; or

(b) a carrier operating a non-scheduled international flight permitted under section 15D of the *Air Navigation Act 1920* and who is an Australian person.

*bilateral arrangement* has the same meaning as in section 11A of the *Air Navigation Act 1920*.

22 Evidence of certain matters

(1) The Minister may, by notice published in the *Gazette*, from time to time declare:

(a) who are the High Contracting Parties to the Convention;

(b) the territory in respect of which any such Party is bound by the Convention; and

(c) the extent (if any) to which any Party has availed himself of the provisions of the Additional Protocol to the Convention.

(2) A notice in force under this section is evidence of the matters declared.

(3) A notice published by the Governor-General in the *Gazette*, before the date of commencement of this Part, under subsection (3) of

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*Civil Aviation (Carriers’ Liability) Act 1959*  13
Part III  Carriage to which the Warsaw Convention without the Hague Protocol applies

Section 23

section 3 of the Carriage by Air Act 1935 and in force immediately before that date shall, for the purposes of this Act, be deemed to be a notice published by the Minister under this section.

23 Conversion of francs

Any sum in francs mentioned in Article 22 of the Convention shall, for the purposes of an action against a carrier, be converted into Australian 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 or jury.

24 Adoption of certain provisions of Part II

The provisions of sections 12 to 17 (inclusive), except subsection (11) of section 12, apply for the purposes of this Part as if contained in this Part.

24A Jurisdiction of State courts preserved

For the purposes of section 38 of the Judiciary Act 1903, an action under the Convention is taken not to be a matter arising directly under a treaty.

25 Duration of Part [see Note 2]

(1) This Part shall continue in force until a date to be fixed by Proclamation, being a date not earlier than the date upon which a denunciation by Australia of the Convention in accordance with Article 39 of the Convention takes effect.

(2) Upon the date fixed in pursuance of the last preceding subsection, this Part shall be deemed to be repealed and the provisions of section 8 of the Acts Interpretation Act 1901 shall apply as if this Part had been repealed by an Act other than this Act.
Part IIIA—Carriage to which the Guadalajara Convention applies

25A Provisions of Convention to have force of law

The provisions of the Guadalajara Convention have, subject to Parts II, III and IIIC as affected by the next succeeding section, the force of law in Australia in relation to any carriage by air to which that Convention applies.

25B Modification of Parts II and III

In relation to carriage to which the Guadalajara Convention applies, references in Part II (other than section 11), in Part III (other than section 21) and in Part IIIC (other than section 25K) to the Convention shall be read as including references to the provisions of the Guadalajara Convention as having the force of law by virtue of this Part.

25C Evidence of certain matters

(1) The Minister may, by notice in the Gazette, from time to time publish information as to the coming into operation of the Guadalajara Convention or as to the States that have or have not taken any action referred to in Article XI, XII, XIV, XV or XVI of that Convention and as to the particulars of any action so taken.

(2) A notice in force under this section is evidence of the matters specified in the notice.
Part IIIB—Carriage to which the Montreal No. 3 Convention applies

(ss. 25D-25H) [Not in operation—see Note 3]
Part IIIC—Carriage to which the Montreal No. 4 Convention applies

25J Interpretation

In this Part:

the Convention means the Montreal No. 4 Convention.

25K Effect of Convention in Australia

(1) Subject to this Part, the Convention has the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

(2) A reference in this Part to the Convention is to be read, unless the contrary intention appears, as a reference to the Convention as having the force of law because of this section.

25L Application of certain provisions of Part IV

Sections 35 to 39 (inclusive) apply to carriage to which the Convention applies in the same way as they apply to carriage under Part IV, and for that purpose:

(a) a reference in section 37 to Part IV is taken to be a reference to this Part and the Convention; and

(b) any other reference to Part IV is taken to be a reference to the Convention.

25M Jurisdiction of State courts preserved

For the purposes of section 38 of the Judiciary Act 1903, an action under the Convention is taken not to be a matter arising directly under a treaty.

25N Evidence of certain matters

(1) The Minister may, by notice published in the Gazette, from time to time declare:
Part III C  Carriage to which the Montreal No. 4 Convention applies

Section 25N

(a) who are the Parties to the Convention; and
(b) the territory in respect of which any Party is bound by the Convention; and
(c) the extent to which any Party has availed itself of a reservation permitted by the Convention.

(2) A notice under this section is evidence of the matters declared.
Part IV—Other carriage to which this Act applies

26 Interpretation

(1) In this Part, unless the contrary intention appears:

*airline licence* means:
(a) an international airline licence in force under the Air Navigation Regulations; or
(b) an Air Operator’s Certificate in force under the *Civil Aviation Act 1988* authorising airline operations; or
(c) a New Zealand AOC with ANZA privileges (as defined in section 3 of the *Civil Aviation Act 1988*) authorising airline operations.

*baggage*, in relation to a passenger, means:
(a) registered baggage; or
(b) baggage, personal effects or other articles, not being registered baggage, in the possession of the passenger, or in the possession of another person (being a person accompanying the passenger or a servant or agent of the carrier) on behalf of the passenger, while the passenger is on board an aircraft for the purposes of carriage to which this Part applies or during the course of any of the operations of embarking or disembarking.

*charter licence* means:
(a) a charter licence in force under the Air Navigation Regulations; or
(b) an Air Operator’s Certificate in force under the *Civil Aviation Act 1988* authorising charter operations; or
(c) a New Zealand AOC with ANZA privileges (as defined in section 3 of the *Civil Aviation Act 1988*) authorising charter operations.

*commercial transport operations* means operations in which an aircraft is used, for hire or reward, for the carriage of passengers or cargo.

*contract* includes an arrangement made without consideration.
Part IV  Other carriage to which this Act applies

Section 27

*domestic carrier* means a carrier operating a flight for the carriage of passengers:

(a) between a place in a State and a place in another State; or
(b) between a place in a Territory and a place in Australia outside that Territory; or
(c) between a place in a Territory and another place in that Territory;

other than carriage to which Part 2 or 3 applies.

*registered baggage*, in relation to a passenger, means baggage, personal effects or other articles registered with the carrier as baggage intended to be carried under a contract for carriage of the passenger to which this Part applies.

*the Air Navigation Regulations* means the Air Navigation Regulations in force under the *Air Navigation Act 1920*, and includes those Regulations as in force by virtue of a law of a State.

(2) For the purposes of this Part, where, by reason of a contract of charter or other contract between the holder of an airline licence or a charter licence and another person, persons or baggage are or is carried, or are or is to be carried, in an aircraft while it is being operated by the holder of the airline licence or charter licence, that contract shall be deemed to be a contract of carriage providing for that carriage.

27  Application of Part [see Note 3]

(1) This Part applies to the carriage of a passenger where the passenger is or is to be carried in an aircraft being operated by the holder of an airline licence or a charter licence in the course of commercial transport operations, or in an aircraft being operated in the course of trade and commerce between Australia and another country, under a contract for the carriage of the passenger:

(a) between a place in a State and a place in another State;
(b) between a place in a Territory and a place in Australia outside that Territory;
(c) between a place in a Territory and another place in that Territory; or
Other carriage to which this Act applies

(d) between a place in Australia and a place outside Australia;
not being carriage to which the Warsaw Convention, the Hague
Protocol, the Montreal Protocol No. 4 or the Guadalajara
Convention applies.

(3) For the purposes of this section, where, under a contract of
carriage, the carriage is to begin and end in the one State or
Territory (whether at the one place or not) but is to include a
landing or landings at a place or places outside that State or
Territory, the carriage shall be deemed to be carriage between the
place where the carriage begins and that landing place, or such one
of those landing places as is most distant from the place where the
carriage begins, as the case may be.

(4) For the purposes of this section, where:
(a) the carriage of a passenger between two places is to be
performed by two or more carriers in successive stages;
(b) the carriage has been regarded by the parties as a single
operation, whether it has been agreed upon by a single
contract or by two or more contracts; and
(c) this Part would apply to that carriage if it were to be
performed by a single carrier under a single contract;
this Part applies in relation to a part of that carriage
notwithstanding that that part consists of carriage between a place
in a State and a place in the same State.

28 Liability of the carrier for death or injury

Subject to this Part, where this Part applies to the carriage of a
passenger, the carrier is liable for damage sustained by reason of
the death of the passenger or any personal injury suffered by the
passenger resulting from an accident which took place on board the
aircraft or in the course of any of the operations of embarking or
disembarking.

29 Liability of the carrier in respect of baggage

(1) Where this Part applies to the carriage of a passenger, the carrier is
liable under this Part, and not otherwise, for damage sustained in
the event of the destruction or loss of, or injury to, baggage of the
passenger, if the occurrence which causes the destruction, loss or
injury takes place during the period of the carriage by air unless the
carrier proves that he and his servants and agents took all necessary measures to avoid the destruction, loss or injury or that it was impossible for him or them to take such measures.

(2) For the purposes of the last preceding subsection but subject to the next succeeding subsection, the period of the carriage by air comprises:
   (a) in relation to baggage other than registered baggage—the period during which the passenger is on board the aircraft or is in the course of any of the operations of embarking or disembarking; and
   (b) in relation to registered baggage—the period during which the baggage is in the charge of the carrier, whether on board the aircraft or elsewhere.

(3) In proceedings under this section in respect of registered baggage, if the carrier proves that the baggage was, within a period of twelve hours after the arrival of the aircraft at the place to which the baggage was to be carried in the aircraft, available for collection by the passenger at a place at which, under the contract, the baggage was to be or could be made available to the passenger, the period of the carriage by air shall not be deemed to include any time after the expiration of that period of twelve hours.

(4) In the application of section 39 in relation to an action under this Part in respect of baggage other than registered baggage, the carrier shall be deemed to have proved that the damage was caused by the negligence of the passenger, except so far as the passenger proves that he was not responsible for the damage.

(5) Where, in relation to carriage referred to in subsection (4) of section 27, registered baggage has been destroyed, lost or injured in circumstances in which, if the carriage had been performed by a single carrier, that carrier would be subject to liability under this section, the carriers (other than a carrier who proves that the baggage was not in his charge at the time of the destruction, loss or injury) are jointly and severally subject to that liability.

30 Complaint to be made in respect of baggage

(1) For the purposes of an action under this Part, evidence proving receipt of registered baggage, without complaint, by the person
entitled to delivery is evidence that the baggage has been delivered in good condition and in accordance with the contract of carriage.

(2) An action does not lie against a carrier under this Part in respect of baggage, except in case of fraud on the part of the carrier, unless the passenger, or a person acting on his behalf, has complained by writing delivered to the carrier or served on the carrier by post or in such other manner as is prescribed:

(a) in the case of injury to registered baggage or of loss or destruction of part only of an item of registered baggage—within the period of three days after the date of receipt by or on behalf of the passenger of the baggage, or of the remainder of that item of baggage, as the case may be;

(b) in the case of loss or destruction of the whole of an item of registered baggage—within the period of twenty-one days from the date on which the baggage should have been placed at the disposal of the passenger; or

(c) in the case of injury to, or loss or destruction of, baggage other than registered baggage—within the period of three days from the date on which the carriage of the passenger ended.

(3) A court having jurisdiction in actions under this Part in respect of baggage may, by order, grant leave to a person to institute or continue an action in that court in relation to baggage notwithstanding that there has been a failure to complain in accordance with the last preceding subsection within the time fixed by that subsection, where the court is satisfied that it is just and equitable to do so by reason of special circumstances.

(4) Subsection (2) does not apply in relation to an action in respect of which leave has been granted under the last preceding subsection.

31 Limitation of liability

(1) Subject to the regulations relating to passenger tickets, the liability of a domestic carrier under this Part in respect of each passenger, by reason of his injury or death resulting from an accident, is limited to:

(a) where neither paragraph (b) nor paragraph (c) applies—$500,000;
Part IV  Other carriage to which this Act applies

Section 31

(b) where, at the date of the accident, a regulation was in force prescribing an amount higher than $500,000 for the purposes of this subsection but paragraph (c) does not apply—the amount prescribed by that regulation; or

(c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as an amount that exceeds $500,000—the amount so specified; or

(d) if, at the date of the accident, a regulation prescribing an amount was in force as mentioned in paragraph (b) but the contract of carriage under which the passenger was carried specified an amount that exceeds that amount as the limit of the carrier’s liability—the amount so specified.

(1A) Subject to the regulations relating to passenger tickets, the liability under this Part of a carrier to which this Part applies, other than a domestic carrier, in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

(a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or

(b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or

(c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or

(d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.

(2) Subject to the regulations relating to baggage checks, the liability of a carrier under this Part in respect of the destruction or loss of, or injury to, the baggage of any one passenger, being baggage that is, or includes, registered baggage, is limited to:

Civil Aviation (Carriers’ Liability) Act 1959
Other carriage to which this Act applies Part IV

Section 31

(a) where neither paragraph (b) nor paragraph (c) applies—$900;
(b) where, at the date of the occurrence that caused the destruction, loss, or injury, a regulation was in force prescribing an amount higher than $900 for the purposes of this subsection but paragraph (c) does not apply—the amount prescribed by that regulation; or
(c) where an amount that exceeds:
   (i) if, at the date of the occurrence referred to in paragraph (b), no regulation was in force as mentioned in that paragraph—$900; or
   (ii) if, at the date of the occurrence referred to in paragraph (b), a regulation prescribing an amount was in force as mentioned in that paragraph—the amount prescribed by the regulation;

is specified, in the contract of carriage pursuant to which the passenger was carried, as the limit of the carrier’s liability—the amount so specified.

(3) The liability of a carrier under this Part in respect of the destruction or loss of, or injury to, the baggage, other than registered baggage, of any one passenger is limited to:
(a) where neither paragraph (b) nor paragraph (c) applies—$90;
(b) where, at the date of the occurrence that caused the destruction, loss or injury, a regulation was in force prescribing an amount higher than $90 for the purposes of this subsection but paragraph (c) does not apply—the amount prescribed by that regulation; or
(c) where an amount that exceeds:
   (i) if, at the date of the occurrence referred to in paragraph (b), no regulation was in force as mentioned in that paragraph—$90; or
   (ii) if, at the date of the occurrence referred to in paragraph (b), a regulation prescribing an amount was in force as mentioned in that paragraph—the amount prescribed by that regulation;

is specified, in the contract of carriage pursuant to which the passenger was carried, as the limit of the carrier’s liability—the amount so specified.
Part IV Other carriage to which this Act applies

Section 32

32 Contracting out

(1) Any provision of an agreement tending to relieve the carrier of liability in accordance with this Part or to fix a lower limit than the appropriate limit of liability provided by this Part is null and void, but the nullity of such a provision does not involve the nullity of the whole contract of carriage.

(2) The last preceding subsection does not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of goods carried.

33 Servants and agents of carrier

(1) If an action in respect of any damage is brought against a servant or agent of a carrier, the servant or agent, if he proves that he acted within the scope of his employment or authority, is entitled to avail himself of the limits of liability, if any, which the carrier himself would be entitled to invoke under section 31 in an action against him in respect of that damage.

(2) The aggregate of the amounts recoverable from the carrier, his servants and agents shall not exceed the limits referred to in the last preceding subsection.

(3) The right to bring an action against a servant or agent of a carrier in respect of any damage, being damage which gave rise to a cause of action against the carrier under this Part, is extinguished if the action is not brought within the time specified in the next succeeding section.

34 Limitation of actions

The right of a person to damages under this Part is extinguished if an action is not brought by him or for his benefit within two years after the date of arrival of the aircraft at the destination, or, where the aircraft did not arrive at the destination;

(a) the date on which the aircraft ought to have arrived at the destination; or

(b) the date on which the carriage stopped; whichever is the later.
35 Liability in respect of death

(1) The provisions of this section apply in relation to liability imposed by this Part on a carrier in respect of the death of a passenger (including the injury that resulted in the death).

(2) Subject to section 37, the liability under this Part is in substitution for any civil liability of the carrier under any other law in respect of the death of the passenger or in respect of the injury that has resulted in the death of the passenger.

(3) Subject to the next succeeding subsection, the liability is enforceable for the benefit of such of the members of the passenger’s family as sustained damage by reason of his death.

(4) To the extent that the damages recoverable include loss of earnings or profits up to the date of death, or funeral, medical or hospital expenses paid or incurred by the passenger before his death or by his personal representative, the liability is enforceable for the benefit of the personal representative of the passenger in his capacity as personal representative.

(5) For the purposes of subsection (3), the members of the passenger’s family shall be deemed to be the wife or husband, de facto spouse, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger, and, in ascertaining the members of the passenger’s family, an illegitimate person or an 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 adoptors.

(6) The action to enforce the liability may be brought by the personal representative of the passenger or by a person for whose benefit the liability is, under the preceding provisions of this section, enforceable, but only one action shall be brought in respect of the death of any one passenger, and such an action, by whomsoever brought, shall be for the benefit of all persons for whose benefit the liability is so enforceable who are resident in Australia or, not being resident in Australia, express the desire to take the benefit of the action.

(7) The damages recoverable in the action include loss of earnings or profits up to the date of death and the reasonable expenses of the funeral of the passenger and medical and hospital expenses.
reasonably incurred in relation to the injury that resulted in the death of the passenger.

(8) In awarding damages, the court or jury is not limited to the financial loss resulting from the death of the passenger.

(9) Subject to the next succeeding subsection, the amount recovered in the action, after deducting any costs not recovered from the defendant, shall be divided amongst the persons entitled in such proportions as the court (or, where the action is tried with a jury, the jury) directs.

(10) The court 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 this Part limiting the liability of the carrier and of any proceedings which have been, or are likely to be, commenced against the carrier, whether in or outside Australia.

36 Liability in respect of injury

Subject to the next succeeding section, the liability of a carrier under this Part in respect of personal injury suffered by a passenger, not being injury that has resulted in the death of the passenger, is in substitution for any civil liability of the carrier under any other law in respect of the injury.

37 Certain liabilities not excluded

Nothing in this Part shall be deemed to exclude any liability of a carrier:

(a) to indemnify an employer of a passenger or any other person in respect of any liability of, or payments made by, that employer or other person under a law of the Commonwealth or of a State or Territory providing for compensation, however described, in the nature of workers’ compensation; or

(b) to pay contribution to a tort-feasor who is liable in respect of the death of, or injury to, the passenger;

but this section does not operate so as to increase the limit of liability of a carrier in respect of a passenger beyond the amount fixed by or in accordance with this Part.
38 **Proceeds of insurance policies etc.**

In assessing damages in respect of liability under this Part there shall not be taken into account by way of reduction of the damages:

(a) a sum paid or payable on the death of, or injury to, a passenger under a contract of insurance;
(b) a sum paid or payable out of a superannuation, provident or like fund, or by way of benefit from a friendly society, benefit society or trade union;
(c) any sum in respect of a pension, social service benefit or repatriation benefit paid or payable, consequent upon the death or injury, by any government or person;
(d) in the case of death, any sum in respect of the acquisition by a spouse or child of the deceased, consequent upon the death, of, or of an interest in, a dwelling used at any time as the home of that spouse or child, or of, or of an interest in, the household contents of any such dwelling; or
(e) a premium that would have become payable under a contract of insurance in respect of the life of a deceased passenger if he had lived beyond the time at which he died.

39 **Contributory negligence**

(1) If, in an action against a carrier under this Part, the carrier proves that the damage was caused or contributed to by the negligence of the passenger, the damages recoverable shall be assessed in accordance with this section.

(2) The court shall first determine the damages that would have been recoverable if there were no limit on the amount of those damages fixed by or in accordance with this Part and there had been no negligence on the part of the passenger.

(3) The damages determined under the last preceding subsection shall be reduced to such extent as the court thinks just and equitable having regard to the share of the passenger in the responsibility for the damage.

(4) If the damages as reduced in accordance with the last preceding subsection exceed the maximum liability of the carrier fixed by or in accordance with this Part, the court shall further reduce the damages to that maximum amount.
(5) Where any case to which subsection (1) applies is tried with a jury, the jury shall determine the damages referred to in subsection (2) and the amount of the reduction under subsection (3).

### 40 Regulations relating to passenger tickets and baggage checks

The regulations may make provision relating to passenger tickets and baggage checks in respect of passengers or baggage in relation to whom or which this Part applies, being provision for:

(a) the circumstances in which such tickets and checks must be issued by carriers;

(b) matters to be included in such tickets and checks; and

(c) the non-application of a provision of section 31 (except in cases where the limit of liability under that provision is a sum specified in the contract of carriage) where specified provisions of the regulations relating to the issue, form and contents of such tickets or checks have not been complied with.

### 41 Application of Part to cargo

The regulations may provide for applying, with such exceptions, adaptations and modifications as are prescribed, the provisions of the Montreal No. 4 Convention and any of the provisions of this Act to and in relation to the carriage of cargo, being carriage in relation to which, if it were the carriage of passengers, this Part would apply, but so that no adaptation or modification of the provisions of Article 22 of the Montreal No. 4 Convention shall have the effect of limiting the liability of the carrier to a sum less than the sum to which his liability would be limited if those provisions were applied without adaptation or modification.
Part IVA—Carriers to be insured against liability to passengers for death or personal injury

41A Object of Part

The object of this Part is to require carriers to hold, in respect of carriage to which Part II, III or IV applies, insurance that will ensure, as far as practicable, that compensation within the limits of liability prescribed by this Act will be paid in respect of death or personal injury suffered by passengers on aircraft.

41B Definitions

In this Part:

acceptable contract of insurance means a contract of insurance in respect of which a certificate is in force under subsection 41C(7).

business day means a day other than a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

carrier means a person engaged, or offering to engage, in an air transport operation for the carriage of passengers to which Part II, III or IV applies.

CASA means the Civil Aviation Safety Authority established by the Civil Aviation Act 1988.

contract of insurance means a contract between a carrier and an insurer under which the insurer indemnifies the carrier against personal injury liability in respect of each passenger carried, or to be carried, by air by the carrier.

Director has the same meaning as in the Civil Aviation Act 1988.

member has the same meaning as in the Civil Aviation Act 1988.

personal injury liability, in relation to a carrier, means liability under this Act in respect of the death of, or personal injury suffered by, passengers carried, or to be carried, by air by the carrier.
Part IVA  Carriers to be insured against liability to passengers for death or personal injury

Section 41C

41C  Carriers may be required to produce evidence that an acceptable contract of insurance is in force between the carrier and an insurer

(1) CASA may, at any time and from time to time, by written notice given to a carrier (other than a carrier that is, or is an agent of, the Crown in any capacity), require the carrier, within a period set out in the notice, to produce evidence, satisfactory to CASA, that there is in force between the carrier and an insurer a contract of insurance that meets the prescribed requirements.

(2) The prescribed requirements are:
   (a) the requirements of subsections (3) and (4); and
   (b) any other requirements made by the regulations for the purposes of this section.

(3) It is a requirement in relation to a contract of insurance that, under the contract, the insurer’s liability to indemnify the carrier against personal injury liability, in respect of each passenger carried, or to be carried, by air by the carrier, is for an amount that is not less than:
   (a) in respect of carriage by a domestic carrier to which Part IV applies—$500,000; or
   (b) in respect of any other carriage—260,000 SDRs.

(4) It is a requirement of a contract of insurance that, under the contract, the insurer’s liability to indemnify the carrier against personal injury liability:
   (a) is not affected by any breach of a safety-related requirement imposed by or under any Act or by the Civil Aviation Safety Authority; and
   (b) is not contingent upon the financial condition or solvency of the carrier or upon the carrier not being or not becoming bankrupt or not beginning to be or not being wound up.

(5) The prescribed requirements do not prevent a contract of insurance from including provisions indemnifying the carrier against a liability other than personal injury liability.

(6) A contract of insurance under which:
   (a) the insurer indemnifies the carrier against liability as required by Part 205 of the Federal Aviation Regulations of the United
Carriers to be insured against liability to passengers for death or personal injury  

Part IV

Section 41CA

States of America made under the law known as Title 49 United States Code—Transportation; and
(b) the insurer’s liability to indemnify the carrier:
(i) extends to carriage in, to or from Australia; and
(ii) is not affected by any breach of a requirement referred to in paragraph (4)(a);
is taken to meet the requirements referred to in subsection (4).

(7) If CASA is satisfied that there is in force between a carrier and an insurer a contract of insurance that meets the prescribed requirements, CASA may give the carrier a written certificate stating that CASA is so satisfied.

41CA Carrier that is, or is an agent of, the Crown may be required to show that adequate financial arrangements exist to discharge personal injury liability of the carrier

(1) CASA may, at any time and from time to time, by written notice to a carrier that is, or is an agent of, the Crown in any capacity, require the carrier, within a period set out in the notice, to produce evidence, satisfactory to CASA, that financial arrangements exist that are adequate to discharge any personal injury liability that has accrued or may accrue to the carrier.

(2) If CASA is satisfied that such financial arrangements exist, CASA may give the carrier a written certificate stating that CASA is so satisfied.

41D Insurer’s liability not affected by exclusions or breaches

Except as prescribed by the regulations, an insurer’s liability under a contract of insurance to indemnify the carrier against personal injury liability to the extent mentioned in subsection 41C(3) is not affected by any warranty or exclusion in the contract of insurance or by any breach of the contract of insurance by the carrier.

41E Carriers to be covered by acceptable insurance

(1) A carrier (other than a carrier that is, or is an agent of, the Crown in any capacity) must not carry passengers by air unless an acceptable contract of insurance is in force in relation to the carrier.
Part IVA Carriers to be insured against liability to passengers for death or personal injury

Section 41F

(1A) If a carrier who is, or is an agent of, the Crown in any capacity has been required by CASA under section 41CA to produce evidence, satisfactory to CASA, of the existence of financial arrangements referred to in that section, the carrier must not carry passengers by air unless the carrier has produced such evidence.

(2) A carrier who intentionally contravenes subsection (1) is guilty of an offence punishable on conviction by imprisonment for a period of not more than 2 years.

Note: Subsection 4B(2) of the Crimes Act 1914 allows a court to impose in respect of an offence an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of an offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

41F Conduct by directors, servants and agents

(1) If, in proceedings for an offence against this Part, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and

(b) that the director, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Part, to have been engaged in also by the body corporate unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

(3) If, in proceedings for an offence against this Part, it is necessary to establish the state of mind of an individual in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a servant or agent of the individual within the scope of his or her actual or apparent authority; and

(b) that the servant or agent had the state of mind.
(4) Any conduct engaged in on behalf of an individual by a servant or agent of the individual within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Part, to have been engaged in also by the individual unless the individual establishes that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(5) If:
(a) a person who is an individual is convicted of an offence; and
(b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
the person is not liable to be punished by imprisonment for the offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
(a) the knowledge, intention, opinion, belief or purpose of the person; and
(b) the person’s reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to a director of a body corporate includes a reference to a constituent member of, or to a member of a board or other group of persons administering or managing the affairs of, a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

(8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

(9) A reference in this section to an offence against this Part includes a reference to an offence created by section 6 of the Crimes Act 1914 or section 11.1, 11.4 or 11.5 of the Criminal Code that relates to this Part.

41G Grounds of cancellation of contract of insurance not affected

Nothing in this Part affects:
(a) the grounds on which an insurer may cancel a contract of insurance between the insurer and a carrier; or
Part IVA  Carriers to be insured against liability to passengers for death or personal injury

Section 41H

(b) any right that an insurer may have to recover from a carrier an amount paid by the insurer under a contract of insurance between the insurer and the carrier.

41H  Conflict of laws

If:

(a) the proper law of a contract of insurance would, except for a term that it should be the law of a foreign country or a term to a similar effect, be the law of any part of Australia; or

(b) a contract of insurance contains a term that purports to substitute, or has the effect of substituting, the law of a foreign country for all or any of the provisions of this Part; this Part applies to the contract despite that term.

41J  Injunctions

(1) In this section:

*prohibited carriage* means carriage by a carrier at a time when an acceptable contract of insurance is not in force between the carrier and an insurer.

(2) If CASA has reason to believe that a carrier has engaged, or is proposing to engage, in prohibited carriage, CASA may apply to a court of competent jurisdiction for an injunction restraining the carrier from engaging in the carriage.

(3) If the carrier does not satisfy the court that it is not engaging, or proposing to engage, in prohibited carriage, the court must grant the injunction.

(4) If in the opinion of the court it is desirable to do so, the court may grant an interim injunction pending determination of an application under subsection (2).

(5) The court may discharge or vary an injunction or an interim injunction granted under this section.

(6) The power of the court to grant an injunction or an interim injunction restraining a carrier from engaging in prohibited carriage may be exercised:
Carriers to be insured against liability to passengers for death or personal injury

Section 41K

(a) whether or not it appears to the court that the carrier intends to engage again, or to continue to engage, in prohibited carriage of that kind; and
(b) whether or not the carrier has previously engaged in prohibited carriage of that kind.

(7) A court must not require CASA, as a condition of granting an interim injunction, to give any undertakings as to damages.

(8) The Federal Court of Australia is invested with federal jurisdiction in matters where CASA applies for an injunction or an interim injunction under this section.

41K Regulations

The regulations may make provision for or in relation to:
(a) the manner and form in which notices may be given under subsection 41C(1); and
(b) the period that may be set out in such notices; and
(c) the manner and form in which evidence is to be produced under that subsection; and
(d) the giving by persons referred to in the regulations (who may be individuals not resident in Australia or corporations not incorporated or carrying on business in Australia) of notice (whether in advance, or after the occurrence of the event concerned) to CASA of any modification, cancellation, non-renewal or expiry, or of any proposed modification, cancellation or non-renewal, or of any impending expiry, of an acceptable contract of insurance; and
(e) the consequences (including any effect on the contract of insurance) of failure to give a notice referred to in paragraph (d).

41L Delegation

(1) The Director may, in writing, delegate all or any of CASA’s powers under this Part to:
(a) a member; or
(b) a member of the staff of CASA.

(2) The power of delegation referred to in paragraph (1)(b) includes a power to delegate a power to any member of the staff of CASA from time to time holding, occupying, or performing the duties of,
Part IVA  Carriers to be insured against liability to passengers for death or personal injury

Section 41M

a specified office or position, even if the office or position does not come into existence until after the delegation is given.

(3) If:

(a) the Director has, under this section, delegated a power of CASA contained in a provision of this Part; and

(b) a delegate exercises the power;

a reference in that provision to CASA is taken, in relation to the exercise of the power by the delegate, to be a reference to the delegate.

41M  Saving

Any action taken or any other thing done by, or in relation to, the Minister or a delegate of the Minister before the commencement of this section is to be treated after that commencement as if it had been taken or done by or in relation to CASA.
Part V—Miscellaneous

41N Corresponding State laws may confer functions and powers on Commonwealth authorities and officers

A law of a State may confer functions and powers on Commonwealth authorities and officers for the purposes of any of the provisions of sections 41B to 41M as those provisions apply as a law of the State, either with or without modifications, and those Commonwealth authorities and officers may perform or exercise the functions or powers so conferred.

42 Stowaways [see Note 3]

(1) Where a person travels in an aircraft without the consent of the carrier and Part II, Part III, Part IIIC or Part IV would apply in relation to the carriage of that person if he were a passenger carried under a contract for his carriage for reward between the place where he boarded the aircraft and his place of disembarkation, the liability (if any) of the carrier, or of his servants or agents, in respect of that person and his baggage is subject to the limits as to amounts that are applicable in respect of passengers under that Part.

(2) This section does not impose any liability on a carrier or a servant or agent of a carrier to which he is not subject apart from this section.

(3) For the purposes of this section, the place of disembarkation of a person shall be deemed to be the next scheduled stopping place after the place at which he boards the aircraft or, if he continues on board after the aircraft leaves that next scheduled stopping place, the scheduled stopping place next after the last stopping place from which the aircraft departed with that person on board.
Section 43

43 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
Schedules
Schedule 1—Convention for the unification of certain rules relating to international carriage by air

Section 9(1)

Chapter I—Scope—Definitions

Article 1

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression “international carriage” means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Article 2

1. The Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

Chapter II—Documents of Carriage

SECTION 1—PASSENGER TICKET

Article 3

1. For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:
   (a) the place and date of issue;
   (b) the place of departure and of destination;
   (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
   (d) the name and address of the carrier or carriers;
   (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION 2—BAGGAGE CHECK

Article 4

1. For the carriage of baggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a baggage check.

2. The baggage check shall be made out in duplicate, one part for the passenger and the other part for the carrier.

3. The baggage check shall contain the following particulars:
   (a) the place and date of issue;
   (b) the place of departure and of destination;
   (c) the name and address of the carrier or carriers;

42 Civil Aviation (Carriers’ Liability) Act 1959
(d) the number of the passenger ticket;
(e) a statement that delivery of the baggage will be made to the bearer of the baggage check;
(f) the number and weight of the packages;
(g) the amount of the value declared in accordance with Article 22(2);
(h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

4. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts baggage without a baggage check having been delivered, or if the baggage check does not contain the particulars set out at (d) (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION 3—AIR WAYBILL

Article 5

1. Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an “air waybill”; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

2. The first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The carrier shall sign on acceptance of the cargo.
4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

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

Article 8

The air waybill shall contain the following particulars:
(a) the place and date of its execution;
(b) the place of departure and of destination;
(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
(d) the name and address of the consignor;
(e) the name and address of the first carrier;
(f) the name and address of the consignee, if the case so requires;
(g) the nature of the cargo;
(h) the number of the packages, the method of packing and the particular marks or numbers upon them;
(i) the weight, the quantity and the volume or dimensions of the cargo;
(j) the apparent condition of the cargo and of the packing;
(k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
(l) if the cargo is sent for payment on delivery, the price of the cargo, and, if the case so requires, the amount of the expenses incurred;
(m) the amount of the value declared in accordance with Article 22(2);
(n) the number of parts of the air waybill;
(o) the documents handed to the carrier to accompany the air waybill;
(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
(q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts cargo without an air waybill having been made out, or if the air waybill does not contain all the particulars set out in Article 8(a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

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 waybill.

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

Article 11

1. The air waybill is prima facie evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

2. The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those 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 waybill 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 journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, 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 impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

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 waybill 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 hand over to him the air waybill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage set out in the air waybill.

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 or 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 express provision in the air waybill.
Article 16

1. The consignor must furnish such information and attach to the air waybill such 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 inquire 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 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 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, baggage or cargo.
Article 20

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

2. In the carriage of cargo and baggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

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 passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. 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 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery 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 actual value to the consignor at delivery.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

4. The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.
Article 23

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.

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

1. The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to 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.

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 three days from the date of receipt in the case of baggage 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 baggage or cargo has 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, or 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 Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V—General and Final Provisions

Article 32

Any clause 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 Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

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

Article 34

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the
establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.

*Article 35*

The expression “days” when used in this Convention means current days not working days.

*Article 36*

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

*Article 37*

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

2. As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

3. It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

*Article 38*

1. This Convention shall, after it has come into force, remain open for accession by any State.

2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.
3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.
Schedule 1 Convention for the unification of certain rules relating to international carriage by air

[Here follow the signatures of the Plenipotentiaries of the States (including Australia) on behalf of which the Convention was signed.]

ADDITIONAL PROTOCOL

(with reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

[Here follow the signatures of the Plenipotentiaries of the States (including Australia) on behalf of which the Additional Protocol was signed.]
Schedule 2—The Warsaw Convention as amended at the Hague

Section 8

Article XIX of the Hague Protocol provides that, as between the parties to the Protocol, the Warsaw Convention and the Protocol are to be read and interpreted together as one single instrument, to be known as the “Warsaw Convention as amended at The Hague, 1955”.

The text in this Schedule contains:

(a) the operative provisions of the Warsaw Convention as modified by Chapter I of the Hague Protocol; and
(b) the remaining provisions of the Protocol.

OPERATIVE PROVISIONS OF THE WARSAW CONVENTION, AS MODIFIED BY THE HAGUE PROTOCOL

Chapter I—Scope—Definitions

Article 1

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.
Article 2

1. The Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention shall not apply to carriage of mail and postal packages.

Chapter II—Documents of Carriage

SECTION 1—PASSENGER TICKET

Article 3

1. In respect of the carriage of passengers a ticket shall be delivered containing:
   (a) an indication of the places of departure and destination;
   (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
   (c) a notice to the effect that, if the passenger’s journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.

2. The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1(c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.

SECTION 2—BAGGAGE CHECK

Article 4

1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:
   (a) an indication of the places of departure and destination;
(b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.

2. The baggage check shall constitute prima facie evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1(c)) does not include the notice required by paragraph 1(c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.

SECTION 3—AIR WAYBILL

Article 5

1. Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an “air waybill”; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

2. The first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.
3. The carrier shall sign prior to the loading of the cargo on board the aircraft.

4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

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

Article 8

The air waybill shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.

Article 9

If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.

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 waybill.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.
Article 11

1. The air waybill is prima facie evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

2. The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those 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 waybill 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 journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, 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 impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

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 waybill 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 hand over to him the air waybill and to deliver the cargo to him, on payment
of the charges due and on complying with the conditions of carriage set out in the air waybill.

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 or 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 express provision in the air waybill.

3. Nothing in this Convention prevents the issue of a negotiable air waybill.

Article 16

1. The consignor must furnish such information and attach to the air waybill such 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 inquire 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 damages 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 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, baggage or cargo.

Article 20

The carrier is not liable if he proves that he and his servants and 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 two hundred and fifty thousand francs. 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 two hundred and fifty thousand francs. 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 two hundred and fifty francs 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 the 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.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

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 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.

5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national
currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.

**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.

**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, or 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 Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.
Chapter V—General and Final Provisions

Article 32

Any clause 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 Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

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

Article 34

The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression “days” when used in this Convention means current days not working days.

Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 40A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression High Contracting Party shall mean State. In all other cases, the expression High Contracting Party shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.
2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

*Article 41*

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

*Additional Protocol*

*(with reference to Article 2)*

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

*REMAINING PROVISIONS OF THE HAGUE PROTOCOL*

*PROTOCOL*

to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929

THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, HAVE AGREED as follows:
Chapter I—Amendments to the Convention
[omitted]

Chapter II—Scope of Application of the Convention as Amended

Article XVIII

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

Chapter III—Final Clauses

Article XIX

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955.

Article XX

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

Article XXI

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the People’s Republic of Poland.

68 Civil Aviation (Carriers’ Liability) Act 1959
Article XXII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People’s Republic of Poland.

Article XXIII

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.

2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People’s Republic of Poland and shall take effect on the ninetieth day after the deposit.

Article XXIV

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People’s Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People’s Republic of Poland of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article XXV

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one
or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People’s Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

**Article XXVI**

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People’s Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

**Article XXVII**

The Government of the People’s Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

(a) of any signature of this Protocol and the date thereof;
(b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;
(c) of the date on which this Protocol comes into force in accordance with Article XXII, paragraph 1;
(d) of the receipt of any notification of denunciation and the date thereof;
(e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and
(f) of the receipt of any notification made under Article XXVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

70 Civil Aviation (Carriers’ Liability) Act 1959
DONE at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People’s Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations, and to the International Civil Aviation Organization.
Schedule 3—Convention

Section 9(2A)

CONVENTION,

Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier.

THE STATES SIGNATORY TO THE PRESENT CONVENTION

NOTING that the Warsaw Convention does not contain particular rules relating to international carriage by air performed by a person who is not a party to the agreement for carriage

CONSIDERING that it is therefore desirable to formulate rules to apply in such circumstances

HAVE AGREED AS FOLLOWS:

Article I

In this Convention:

a) “Warsaw Convention” means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague, 1955, according to whether the carriage under the agreement referred to in paragraph (b) is governed by the one or by the other;

b) “contracting carrier” means a person who as a principal makes an agreement for carriage governed by the Warsaw Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor;

c) “actual carrier” means a person, other than the contracting carrier, who, by virtue of authority from the contracting carrier, performs the whole or part of the carriage contemplated in paragraph (b) but who is not with respect to such part a successive carrier within the meaning of the Warsaw Convention. Such authority is presumed in the absence of proof to the contrary.

72 Civil Aviation (Carriers’ Liability) Act 1959
Article II

If an actual carrier performs the whole or part of carriage which, according to the agreement referred to in Article I, paragraph (b), is governed by the Warsaw Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Convention, be subject to the rules of the Warsaw Convention, the former for the whole of the carriage contemplated in the agreement, the latter solely for the carriage which he performs.

Article III

1. The acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the limits specified in Article 22 of the Warsaw Convention. Any special agreement under which the contracting carrier assumes obligations not imposed by the Warsaw Convention or any waiver of rights conferred by that Convention or any special declaration of interest in delivery at destination contemplated in Article 22 of the said Convention, shall not affect the actual carrier unless agreed to by him.

Article IV

Any complaint to be made or order to be given under the Warsaw Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 12 of the Warsaw Convention shall only be effective if addressed to the contracting carrier.

Article V

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits of liability which are applicable under this Convention to the carrier whose servant or agent he is unless it is proved that he acted in a manner which, under the Warsaw Convention, prevents the limits of liability from being invoked.
Article VI

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

Article VII

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article VIII

Any action for damages contemplated in Article VII of this Convention must be brought, at the option of the plaintiff, either before a court in which an action may be brought against the contracting carrier, as provided in Article 28 of the Warsaw Convention, or before the court having jurisdiction at the place where the actual carrier is ordinarily resident or has his principal place of business.

Article IX

1. Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Convention or to fix a lower limit than that which is applicable according to this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole agreement, which shall remain subject to the provisions of this Convention.

2. In respect of the carriage performed by the actual carrier, the preceding paragraph shall not apply to contractual provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

3. Any clause contained in an agreement for carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of cargo arbitration clauses are allowed,
subject to this Convention, if the arbitration is to take place in one of the jurisdictions referred to in Article VIII.

Article X

Except as provided in Article VII, nothing in this Convention shall affect the rights and obligations of the two carriers between themselves.

Article XI

Until the date on which this Convention comes into force in accordance with the provisions of Article XIII, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

Article XII

1. This Convention shall be subject to ratification by the signatory States.

2. The instruments of ratification shall be deposited with the Government of the United States of Mexico.

Article XIII

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the United Nations and the International Civil Aviation Organization by the Government of the United States of Mexico.

Article XIV

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the Government of the United States of Mexico and shall take effect as from the ninetieth day after the date of such deposit.
Article XV

1. Any Contracting State may denounce this Convention by notification addressed to the Government of the United States of Mexico.

2. Denunciation shall take effect six months after the date of receipt by the Government of the United States of Mexico of the notification of denunciation.

Article XVI

1. Any Contracting State may at the time of its ratification of or accession to this Convention or at any time thereafter declare by notification to the Government of the United States of Mexico that the Convention shall extend to any of the territories for whose international relations it is responsible.

2. The Convention shall, ninety days after the date of the receipt of such notification by the Government of the United States of Mexico, extend to the territories named therein.

3. Any Contracting State may denounce this Convention, in accordance with the provisions of Article XV, separately for any or all of the territories for the international relations of which such State is responsible.

Article XVII

No reservation may be made to this Convention.

Article XVIII

The Government of the United States of Mexico shall give notice to the International Civil Aviation Organization and to all States Members of the United Nations or of any of the Specialized Agencies:

a) of any signature of this Convention and the date thereof;
b) of the deposit of any instrument of ratification or accession and the date thereof;
c) of the date on which this Convention comes into force in accordance with Article XIII, paragraph 1;
d) of the receipt of any notification of denunciation and the date thereof;
e) of the receipt of any declaration or notification made under Article XVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

76 Civil Aviation (Carriers’ Liability) Act 1959
DONE at Guadalajara on the eighteenth day of September One Thousand Nine Hundred and Sixty-one in three authentic texts drawn up in the English, French and Spanish languages. In case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail. The Government of the United States of Mexico will establish an official translation of the text of the Convention in the Russian language.

This Convention shall be deposited with the Government of the United States of Mexico with which, in accordance with Article XI, it shall remain open for signature, and that Government shall send certified copies thereof to the International Civil Aviation Organization and to all States Members of the United Nations or of any Specialized Agency.

[Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Convention has been signed.]
Schedule 4—The Montreal No. 3 Convention

Section 8

("WARSAW CONVENTION AS AMENDED AT THE HAGUE, 1955, AT GUATEMALA CITY, 1971, AND BY THE ADDITIONAL PROTOCOL NO. 3 OF MONTREAL, 1975")

Article V of the Montreal Protocol No. 3, Article XVII of the Guatemala City Protocol and Article XIX of the Hague Protocol together provide that, as between parties to the Montreal Protocol No. 3, that Protocol, the Guatemala City Protocol, the Hague Protocol and the Warsaw Convention are to be read and interpreted together as one single instrument.

The text in this Schedule contains:

(a) the operative provisions of the Warsaw Convention as modified by Chapter I of the Hague Protocol, Chapter I of the Guatemala City Protocol and Chapter I of the Montreal Protocol No. 3; and

(b) the remaining provisions of the Hague Protocol, the Guatemala City Protocol and the Montreal Protocol No. 3.

OPERATIVE PROVISIONS OF THE WARSAW CONVENTION, AS MODIFIED BY THE HAGUE, GUATEMALA CITY AND MONTREAL NO. 3 PROTOCOLS

Chapter I—Scope—Definitions

Article 1

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.
3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

Article 2

1. The Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention shall not apply to carriage of mail and postal packages.

Chapter II—Documents of Carriage

SECTION 1—PASSENGER TICKET

Article 3

1. In respect of the carriage of passengers an individual or collective document of carriage shall be delivered containing:

   (a) an indication of the places of departure and destination;

   (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which would preserve a record of the information indicated in a) and b) of the foregoing paragraph may be substituted for the delivery of the document referred to in that paragraph.

3. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

SECTION 2—BAGGAGE CHECK

Article 4

1. In respect of the carriage of checked baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a document of
carriage which complies with the provisions of Article 3, paragraph 1, shall contain:

(a) an indication of the places of departure and destination;
(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which would preserve a record of the information indicated in a) and b) of the foregoing paragraph may be substituted for the delivery of the baggage check referred to in that paragraph.

3. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

SECTION 3—AIR WAYBILL

Article 5

1. Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an “air waybill”; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

2. The first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The carrier shall sign prior to the loading of the cargo on board the aircraft.

80 Civil Aviation (Carriers’ Liability) Act 1959
4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

**Article 7**

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

**Article 8**

The air waybill shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.

**Article 9**

If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.

**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 waybill.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.
Article 11

1. The air waybill is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

2. The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those 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 waybill 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 journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, 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 impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

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 waybill 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 hand over to him the air waybill and to deliver the cargo to him, on payment
of the charges due and on complying with the conditions of carriage set out in the air waybill.

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 or 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 express provision in the air waybill.

3. Nothing in this Convention prevents the issue of a negotiable air waybill.

Article 16

1. The consignor must furnish such information and attach to the air waybill such 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 inquire into the correctness or sufficiency of such information or documents.
Chapter III—Liability of the Carrier

Article 17

1. The carrier is liable for damage sustained in case of death or personal injury of a passenger upon condition only that the event which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking. However, the carrier is not liable if the death or injury resulted solely from the state of health of the passenger.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or in the course of any of the operations of embarking or disembarking or during any period within which the baggage was in charge of the carrier. However, the carrier is not liable if the damage resulted solely from the inherent defect, quality or vice of the baggage.

3. Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and objects carried by the passenger.

Article 18

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, 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 cargo is in charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, 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, baggage or cargo.
Article 20

1. In the carriage of passengers and baggage the carrier shall not be liable for damage occasioned by delay if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

2. In the carriage of cargo the carrier shall not be liable for damage resulting from destruction, loss, damage or delay if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

Article 21

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, the carrier shall be wholly or partly exonerated from his liability to such person to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of the death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from his liability to the extent that he proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.

Article 22

1. a) In the carriage of persons the liability of the carrier is limited to the sum of 100,000 Special Drawing Rights for the aggregate of the claims, however founded, in respect of damage suffered as a result of the death or personal injury of each passenger. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed 100,000 Special Drawing Rights.

   b) In the case of delay in the carriage of persons the liability of the carrier for each passenger is limited to 4,150 Special Drawing Rights.

   c) In the carriage of baggage the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1,000 Special Drawing Rights for each passenger.

2. a) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the 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 the sum is greater than the consignor’s actual interest in delivery at destination.

b) In the case of loss, damage or delay of part of the 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 cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. a) The courts of the High Contracting Parties which are not authorized under their law to award the costs of the action, including lawyers’ fees, shall, in actions to which this Convention applies, have the power to award, in their discretion, to the claimant the whole or part of the costs of the action, including lawyers’ fees which the court considers reasonable.

b) The costs of the action including lawyers’ fees shall be awarded in accordance with subparagraph a) only if the claimant gives a written notice to the carrier of the amount claimed including the particulars of the calculation of that amount and the carrier does not make, within a period of six months after his receipt of such notice, a written offer of settlement in an amount at least equal to the compensation awarded within the applicable limit. This period will be extended until the time of commencement of the action if that is later.

c) The costs of the action including lawyers’ fees shall not be taken into account in applying the limits under this Article.

4. The sums mentioned in terms of Special Drawing Right in this Article and Article 42 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. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.
Nevertheless, those States which are not Members of the International Monetary Fund and whose Law does not permit the application of the provisions of paragraphs 1 and 2 a) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 1,500,000 monetary units per passenger with respect to paragraph 1 a) of Article 22; 62,500 monetary units per passenger with respect to paragraph 1 b) of Article 22; 15,000 monetary units per passenger with respect to paragraph 1 c) of Article 22; and 250 monetary units per kilogramme with respect to paragraph 2 a) of Article 22. A State applying the provisions of this paragraph may also declare that the sum referred to in paragraphs 2 and 3 of Article 42 shall be the sum of 187,500 monetary units. This monetary unit corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

**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.

**Article 24**

1. In the carriage of cargo, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the carriage of passengers and baggage any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.

**Article 25**

The limit of liability specified in paragraph 2 of 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 the 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 this Convention.

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 to the carriage of cargo 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. In respect of damage resulting from the death, injury or delay of a passenger or the destruction, loss, damage or delay of baggage, the action may be brought before one of the Courts mentioned in paragraph 1 of this Article, or in the territory of one of the High Contracting Parties, before the Court within the jurisdiction of which the carrier has an establishment if the passenger has his domicile or permanent residence in the territory of the same High Contracting Party.

3. 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, or damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 30A

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

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 Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V—General and Final Provisions

Article 32

Any clause 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 Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

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

90 Civil Aviation (Carriers’ Liability) Act 1959
Article 34

The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression “days” when used in this Convention means current days not working days.

Article 35A

No provision contained in this Convention shall prevent a State from establishing and operating within its territory a system to supplement the compensation payable to claimants under the Convention in respect of death, or personal injury, of passengers. Such a system shall fulfil the following conditions:

(a) it shall not in any circumstances impose upon the carrier, his servants or agents, any liability in addition to that provided under this Convention;
(b) it shall not impose upon the carrier any financial or administrative burden other than collecting in that State contributions from passengers if required so to do;
(c) it shall not give rise to any discrimination between carriers with regard to the passengers concerned and the benefits available to the said passengers under the system shall be extended to them regardless of the carrier whose services they have used;
(d) if a passenger has contributed to the system, any person suffering damage as a consequence of death or personal injury of such passenger shall be entitled to the benefits of the system.

Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 40A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression High Contracting Party shall mean State. In all other cases, the expression High Contracting Party shall mean a State whose ratification of or adherence to the
Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

**Article 41**

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

**Article 42**

1. Without prejudice to the provisions of Article 41, Conferences of the Parties to the Protocol done at Guatemala City on the eighth March 1971 shall be convened during the fifth and tenth years respectively after the date of entry into force of the said Protocol for the purpose of reviewing the limit established in Article 22, paragraph 1a) of the Convention as amended by that Protocol.

2. At each of the Conferences mentioned in paragraph 1 of this Article the limit of liability in Article 22, paragraph 1a) in force at the respective dates of these Conferences shall not be increased by an amount exceeding 12 500 Special Drawing Rights.

3. Subject to paragraph 2 of this Article, unless before the thirty-first December of the fifth and tenth year after the date of entry into force of the Protocol referred to in paragraph 1 of this Article the aforesaid Conferences decide otherwise by a two-thirds majority vote of the Parties present and voting, the limit of liability in Article 22, paragraph 1a) in force at the respective dates of these Conferences shall on those dates be increased by 12 500 Special Drawing Rights.

4. The applicable limit shall be that which, in accordance with the preceding paragraphs, is in effect on the date of the event which caused the death or personal injury of the passenger.
Additional Protocol

(with reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

REMAINING OPERATIVE PROVISIONS OF THE HAGUE PROTOCOL

Article XIX

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955*.

Article XXVI

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People’s Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

REMAINING OPERATIVE PROVISIONS OF THE GUATEMALA CITY PROTOCOL

Article XVII

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*.

Article XXIII

1. Only the following reservations may be made to this Protocol:—

   (a) a State whose courts are not authorized under its law to award the costs of the action including lawyers’ fees may at any time by a notification addressed to the International Civil Aviation Organization declare that Article 22, paragraph 3 (a) shall not apply to its courts; and
(b) a State may at any time declare by a notification addressed to the International Civil Aviation Organization that the *Warsaw Convention as amended at The Hague 1955, and at Guatemala City, 1971* shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the International Civil Aviation Organization.

*Article XXV*

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the “Guadalajara Convention”) any reference to the “Warsaw Convention” contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*, in cases where the carriage under the agreement referred to in Article 1, paragraph (b) of the Guadalajara Convention is governed by this Protocol.

*REMAINING OPERATIVE PROVISIONS OF THE MONTREAL NO. 3 PROTOCOL*

*Additional Protocol No. 3* to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocols Done at The Hague on 28 September 1955, and at Guatemala City on 8 March 1971

THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocols done at The Hague on 28 September 1955, and at Guatemala City on 8 March 1971,

HAVE AGREED as follows:

94 *Civil Aviation (Carriers’ Liability) Act 1959*
Chapter I—Amendments to the Convention

[omitted]

Chapter II—Scope of Application of the Convention as Amended

*Article IV*

The Warsaw Convention as amended at the Hague in 1955, and at Guatemala City in 1971 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III—Final Clauses

*Article V*

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and at Guatemala City in 1971, and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975.*

*Article VI*

Until the date on which this Protocol comes into force in accordance with the provisions of Article VIII, it shall remain open for signature by any State.

*Article VII*

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975.*
3. The instruments of ratification shall be deposited with the Government of the Polish People’s Republic.

**Article VIII**

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People’s Republic.

**Article IX**

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, or by any State not a Party to the Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975.*

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People’s Republic and shall take effect on the ninetieth day after the deposit.

**Article X**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People’s Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People’s Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of the Hague Protocol in accordance with Article XXIV thereof or of the Guatemala City Protocol in accordance with Article XXII thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague,*

Article XI

1. Only the following reservations may be made to this Protocol:
   a) any State whose courts are not authorized under its law to award the costs of the action including lawyers’ fees may at any time by a notification addressed to the Government of the Polish People’s Republic declare that Article 22, paragraph 3 a) shall not apply to its courts;
   b) any State may at any time declare by a notification addressed to the Government of the Polish People’s Republic that the Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities; and
   c) any State may declare at the time of ratification or accession to the Montreal Protocol No. 4 of 1975, or at any time thereafter, that it is not bound by the provisions of the Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975, in so far as they relate to the carriage of cargo, mail and postal packages. Such declaration shall have effect ninety days after the date of receipt by the Government of the Polish People’s Republic of the declaration.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People’s Republic.

Article XII

The Government of the Polish People’s Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XIII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules

Civil Aviation (Carriers’ Liability) Act 1959 97
Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the “Guadalajara Convention”) any reference to the “Warsaw Convention” contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

*Article XIV*

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VIII at the Ministry for Foreign Affairs of the Polish People’s Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People’s Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE AT MONTREAL on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.
Schedule 5—The Montreal No. 4 Convention

Section 8

(“WARSAW CONVENTION AS AMENDED AT THE HAGUE, 1955, AND BY PROTOCOL NO. 4 OF MONTREAL, 1975”)

Article XV of the Montreal Protocol No. 4 and Article XIX of the Hague Protocol together provide that, as between parties to the Montreal Protocol No. 4, that Protocol, the Hague Protocol and the Warsaw Convention are to be read and interpreted together as one single instrument.

The text in this Schedule contains:

(a) the operative provisions of the Warsaw Convention as modified by Chapter I of the Hague Protocol and Chapter I of the Montreal Protocol No. 4; and

(b) the remaining provisions of the Hague Protocol and the Montreal Protocol No. 4.

OPERATIVE PROVISIONS OF THE WARSAW CONVENTION, AS MODIFIED BY THE HAGUE AND MONTREAL NO. 4 PROTOCOLS

Chapter I—Scope—Definitions

Article I

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purpose of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon
under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

Article 2

1. The Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

Chapter II—Documents of Carriage

SECTION 1—PASSENGER TICKET

Article 3

1. In respect of the carriage of passengers a ticket shall be delivered containing:
   (a) an indication of the places of departure and destination;
   (b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
   (c) a notice to the effect that, if the passenger’s journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.

2. The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1 (c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.
SECTION 2—BAGGAGE CHECK

Article 4

1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:

   (a) an indication of the places of departure and destination;

   (b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

   (c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.

2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1 (c)) does not include the notice required by paragraph 1 (c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.

SECTION 3—DOCUMENTATION RELATING TO CARGO

Article 5

1. In respect of the carriage of cargo an air waybill shall be delivered.

2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.

3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in paragraph...
2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

Article 6

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked “for the carrier”; it shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

When there is more than one package:

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

(b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph 2 of Article 5 are used.

Article 8

The air waybill and the receipt for the cargo shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the Territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

(c) an indication of the weight of the consignment.

Article 9

Non-compliance with the provisions of Articles 5 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

102 Civil Aviation (Carriers’ Liability) Act 1959
1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 5.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph 2 of Article 5.

Article 11

1. The air waybill or the receipt for the cargo is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those 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 waybill 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 airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport 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 impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.

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 cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13

1. Except when the consignor has exercised his right under Article 12, 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 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 enforce 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 of carriage.

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 express provision in the air waybill or the receipt for the cargo.

**Article 16**

1. The consignor must furnish such information and such 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, his servants or agents.

2. The carrier is under no obligation to inquire 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 damages sustained in the event of the destruction or loss of, or damage to, any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.

3. However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following:
   a) inherent defect, quality or vice of that cargo;
   b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;
   c) an act of war or an armed conflict;
   d) an act of public authority carried out in connexion with the entry, exit or transit of the cargo.
4. The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.

5. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, 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

In the carriage of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

Article 21

1. In the carriage of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the negligence of the person suffering the damage the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

2. In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. 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 two hundred and fifty thousand francs.
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, the liability of the carrier is limited to a sum of two hundred and fifty francs 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 the sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.

   (b) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the 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 the sum is greater than the consignor’s actual interest in delivery at destination.

   (c) 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.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

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.

5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of
millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.

6. 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. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 2 (b) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme. The monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into the national currency shall be made according to the law of the State concerned.

**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.

**Article 24**

1. In the carriage of passengers and baggage, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this
Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

2. In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.

Article 25

In the carriage of passengers and baggage, 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. In the carriage of passengers and baggage, 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.

110 Civil Aviation (Carriers’ Liability) Act 1959
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, or damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 30A

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

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 Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V—General and Final Provisions

Article 32

Any clause 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 Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.
**Schedule 5   The Montreal No. 4 Convention**

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**Article 33**

Except as provided in paragraph 3 of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage or from making regulations which do not conflict with the provisions of this Convention.

**Article 34**

The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.

**Article 35**

The expression “days” when used in this Convention means current days not working days.

**Article 36**

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

**Article 40A**

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression *High Contracting Party* shall mean *State*. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

**Article 41**

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

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112   Civil Aviation (Carriers’ Liability) Act 1959
Additional Protocol
(with reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

REMAINING OPERATIVE PROVISIONS OF THE HAGUE PROTOCOL

Article XIX

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955.

Article XXVI

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People’s Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

REMAINING OPERATIVE PROVISIONS OF THE MONTREAL NO. 3 PROTOCOL

Montreal Protocol No. 4

to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955

THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955,
HAVE AGREED as follows:

**Chapter I—Amendments to the Convention**

[omitted]

**Chapter II—Scope of Application of the Convention as Amended**

*Article XIV*

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place in the territory of another State.

**Chapter III—Final Clauses**

*Article XV*

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

*Article XVI*

Until the date on which this Protocol comes into force in accordance with the provisions of Article XVIII, it shall remain open for signature by any State.

*Article XVII*

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

3. The instruments of ratification shall be deposited with the Government of the Polish People’s Republic.
Article XVIII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People’s Republic.

Article XIX

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People’s Republic and shall take effect on the ninetieth day after the deposit.

Article XX

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People’s Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People’s Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as denunciation of the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.

Article XXI

1. Only the following reservations may be made to this Protocol:
   a) a State may at any time declare by a notification addressed to the Government of the Polish People’s Republic that the Warsaw
Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities; and

b) any State may declare at the time of ratification of or accession to the Additional Protocol No. 3 of Montreal, 1975, or at any time thereafter, that it is not bound by the provisions of the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, in so far as they relate to the carriage of passengers and baggage. Such declaration shall have effect ninety days after the date of receipt of the declaration by the Government of the Polish People’s Republic.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People’s Republic.

Article XXII

The Government of the Polish People’s Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XXIII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the “Guadalajara Convention”) any reference to the “Warsaw Convention” contained in the Guadalajara Convention shall include reference to the Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

Article XXIV

If two or more States are Parties both to this Protocol and to the Guatemala City Protocol, 1971, or to the Additional Protocol No. 3 of Montreal, 1975, the following rules shall apply between them:
a) the provisions resulting from the system established by this Protocol, concerning cargo and postal items, shall prevail over the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975;

b) the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975, concerning passengers and baggage, shall prevail over the provisions resulting from the system established by this Protocol.

Article XXV

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article XVIII at the Ministry for Foreign Affairs of the Polish People’s Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People’s Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE AT MONTREAL on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.
Notes to the Civil Aviation (Carriers’ Liability) Act 1959

Note 1

The Civil Aviation (Carriers’ Liability) Act 1959 as shown in this compilation comprises Act No. 2, 1959 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 March 1998 is not included in this compilation. For subsequent information see Table A.

Table of Acts

<table>
<thead>
<tr>
<th>Act</th>
<th>Number and year</th>
<th>Date of Assent</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Aviation (Carriers’ Liability) Act 1962</td>
<td>38, 1962</td>
<td>28 May 1962</td>
<td>Ss. 1, 2, 6 and 9: Royal Assent Remainder: 1 May 1964 (see Gazette 1964, p. 1569)</td>
<td>S. 2(2)</td>
</tr>
<tr>
<td>Statute Law Revision Act 1973</td>
<td>216, 1973</td>
<td>19 Dec 1973</td>
<td>31 Dec 1973</td>
<td>Ss. 9(1) and 10</td>
</tr>
</tbody>
</table>
### Table of Acts

<table>
<thead>
<tr>
<th>Act</th>
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<th>Date of Assent</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
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<tr>
<td></td>
<td></td>
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<td>(see Gazette 1983, No. G3, p.220)</td>
<td></td>
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<tr>
<td></td>
<td></td>
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<td>S. 4: 24 Sept 1982</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td>(see Gazette 1982, No. G38, p. 3)</td>
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</tr>
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<td>S. 52(1): 29 June 1988 (c)</td>
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<td></td>
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<td>S. 52(3): 30 Apr 1988 Remainder: Royal Assent</td>
<td></td>
</tr>
<tr>
<td>Civil Aviation Act 1988</td>
<td>63, 1988</td>
<td>15 June 1988</td>
<td>Part III (ss. 17–32), s. 98, Part IX (s. 99) and Part X (ss. 100–103): 1 July 1988 (see Gazette 1988, No. S189)</td>
<td>S. 100(1)–(3)</td>
</tr>
<tr>
<td>Transport and Communications Legislation Amendment Act (No. 2) 1993</td>
<td>5, 1994</td>
<td>18 Jan 1994</td>
<td>S. 3 (item 43): Royal Assent (e)</td>
<td>—</td>
</tr>
<tr>
<td>Transport Legislation Amendment Act (No. 2) 1995</td>
<td>89, 1995</td>
<td>20 July 1995</td>
<td>S. 3 (item 26); 20 Jan 1996 (f)</td>
<td>—</td>
</tr>
<tr>
<td>Transport Legislation Amendment Act 1995</td>
<td>95, 1995</td>
<td>27 July 1995</td>
<td>S. 3 (Part E [items 1–8]): Royal Assent (g)</td>
<td>—</td>
</tr>
</tbody>
</table>

120 Civil Aviation (Carriers’ Liability) Act 1959
Notes to the *Civil Aviation (Carriers' Liability) Act 1959*

**Table of Acts**

<table>
<thead>
<tr>
<th>Act</th>
<th>Number and year</th>
<th>Date of Assent</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Aviation Legislation Amendment Act 1998</td>
<td>1, 1998</td>
<td>24 Mar 1998</td>
<td>Schedule 1: Royal Assent (h)</td>
<td>Sch. 1 (item 13) [see Table A]</td>
</tr>
</tbody>
</table>
Notes to the Civil Aviation (Carriers’ Liability) Act 1959

Act Notes

(a) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by section 3 only of the Administrative Changes (Consequential Provisions) Act 1976, subsection 2(7) of which provides as follows:

(7) The amendments of each other Act specified in the Schedule made by this Act shall be deemed to have come into operation on 22 December 1975.

(b) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by section 3 only of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

(c) Subsection 2(3) of the Australian Airlines (Conversion to Public Company) Act 1988 provides as follows:

(3) Subsection 52(1) shall come into operation on the day after subsection 11(3) is complied with.

The date on which the Australian Airlines Limited certified that the requirements of subsection 11(3) had been complied with was 28 June 1988.

(d) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by the Schedule (Part 2) only of the Qantas Sale Act 1992, subsection 2(2) of which provides as follows:

(2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(e) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by the Schedule (item 43) only of the Transport and Communications Legislation Amendment Act (No. 2) 1993, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) to (10) (inclusive), this Act commences on the day on which it receives the Royal Assent.

(f) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by the Transport Legislation Amendment Act (No. 2) 1995, subsections 2(2) and (3) of which provide as follows:

(2) The items in the Schedule (other than items 23 and 30) commence on a day or days to be fixed by Proclamation.

(3) If an item in the Schedule (other than item 23 or 30) does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

(g) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by the Transport Legislation Amendment Act 1995, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(h) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by Schedule 1 only of the Civil Aviation Legislation Amendment Act 1998, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(i) The Civil Aviation (Carriers’ Liability) Act 1959 was amended by Schedule 4 only of the Aviation Legislation Amendment Act (No. 1) 1998, subsection 2(5) of which provides as follows:

(5) The remaining provisions of this Act (including items 9, 10 and 11 of Schedule 1) commence on the day on which this Act receives the Royal Assent.
## Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part I</strong></td>
<td></td>
</tr>
<tr>
<td>S. 2</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 3</td>
<td>am. No. 38, 1962</td>
</tr>
<tr>
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<td>rep. No. 216, 1973</td>
</tr>
<tr>
<td>S. 4</td>
<td>rep. No. 216, 1973</td>
</tr>
<tr>
<td>S. 5</td>
<td>am. No. 38, 1962; No. 216, 1973; No. 126, 1976; No. 6, 1988; No. 189, 1991; No. 196, 1992; No. 96, 2002; No. 21, 2007</td>
</tr>
<tr>
<td>S. 5A</td>
<td>ad. No. 143, 2001</td>
</tr>
<tr>
<td>S. 6</td>
<td>am. No. 216, 1973</td>
</tr>
<tr>
<td>S. 7</td>
<td>rs. No. 1, 1998</td>
</tr>
<tr>
<td>S. 8</td>
<td>rs. No. 189, 1991</td>
</tr>
<tr>
<td>S. 9</td>
<td>am. No. 38, 1962; Nos. 91 and 126, 1976</td>
</tr>
<tr>
<td></td>
<td>rs. No. 189, 1991</td>
</tr>
<tr>
<td><strong>Part II</strong></td>
<td></td>
</tr>
<tr>
<td>S. 10</td>
<td>rs. No. 189, 1991</td>
</tr>
<tr>
<td>S. 11A</td>
<td>ad. No. 95, 1995</td>
</tr>
<tr>
<td></td>
<td>am No. 95, 1998; No. 96, 2002</td>
</tr>
<tr>
<td>S. 12</td>
<td>am. No. 126, 1976; No. 95, 1998</td>
</tr>
<tr>
<td>S. 14</td>
<td>am. No. 54, 1970; No. 216, 1973</td>
</tr>
<tr>
<td>S. 16</td>
<td>am. No. 38, 1962; No. 126, 1976</td>
</tr>
<tr>
<td>S. 19</td>
<td>am. No. 126, 1976; No. 39, 1983</td>
</tr>
<tr>
<td><strong>Part III</strong></td>
<td></td>
</tr>
<tr>
<td>S. 20</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 21A</td>
<td>ad. No. 95, 1995</td>
</tr>
<tr>
<td></td>
<td>am No. 95, 1998; No. 96, 2002</td>
</tr>
<tr>
<td>S. 22</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 24</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 24A</td>
<td>ad. No. 189, 1991</td>
</tr>
<tr>
<td>S. 25</td>
<td>am. No. 126, 1976; No. 39, 1983</td>
</tr>
<tr>
<td><strong>Part IIIA</strong></td>
<td></td>
</tr>
<tr>
<td>Part IIIA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>am. No. 126, 1976; No. 189, 1991</td>
</tr>
<tr>
<td>S. 25C</td>
<td>ad. No. 38, 1962</td>
</tr>
<tr>
<td><strong>Part IIIC</strong></td>
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</tr>
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<tr>
<td><strong>Part IV</strong></td>
<td></td>
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<tr>
<td>S. 26</td>
<td>am. No. 54, 1970; No. 71, 1982; No. 39, 1983; No. 63, 1988; No. 95, 1995; No. 102, 2006</td>
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Table of Amendments

<table>
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<tr>
<th>Provision affected</th>
<th>How affected</th>
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</thead>
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<tr>
<td>Ss. 29, 30 ..........</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 31 ..................</td>
<td>am. No. 93, 1966; No. 54, 1970; No. 126, 1976</td>
</tr>
<tr>
<td></td>
<td>rs. No. 71, 1982</td>
</tr>
<tr>
<td></td>
<td>am. No. 95, 1995</td>
</tr>
<tr>
<td>S. 33 ..................</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 35 ..................</td>
<td>am. No. 126, 1976; No. 95, 1998</td>
</tr>
<tr>
<td>S. 37 ..................</td>
<td>am. No. 54, 1970; No. 216, 1973</td>
</tr>
<tr>
<td>S. 39 ..................</td>
<td>am. No. 38, 1962; No. 126, 1976</td>
</tr>
<tr>
<td>S. 40 ..................</td>
<td>am. No. 126, 1976</td>
</tr>
<tr>
<td>S. 41 ..................</td>
<td>am. No. 189, 1991</td>
</tr>
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Part IVA

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<th>How affected</th>
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<tr>
<td>Part IVA ..........</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td>S. 41A ..................</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td>Ss. 41B, 41C ........</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td></td>
<td>am. No. 1, 1998</td>
</tr>
<tr>
<td>S. 41CA .............</td>
<td>ad. No. 1, 1998</td>
</tr>
<tr>
<td>S. 41D ..................</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td>S. 41E ..................</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td></td>
<td>am. No. 1, 1998</td>
</tr>
<tr>
<td>S. 41F ..................</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td></td>
<td>am. No. 143, 2001</td>
</tr>
<tr>
<td>Ss. 41G, 41H .......</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td>Ss. 41J, 41K .......</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
<td></td>
<td>am. No. 1, 1998</td>
</tr>
<tr>
<td>S. 41L ..................</td>
<td>ad. No. 89, 1995</td>
</tr>
<tr>
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<td>rs. No. 1, 1998</td>
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<td>S. 41M ..................</td>
<td>ad. No. 1, 1998</td>
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Part V

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<td>ad. No. 1, 1998</td>
</tr>
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<td>S. 42 ..................</td>
<td>am. No. 126, 1976; No. 189, 1991</td>
</tr>
<tr>
<td>S. 43 ..................</td>
<td>am. No. 189, 1991</td>
</tr>
<tr>
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<td>rep. No. 126, 1976</td>
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<td>rep. No. 126, 1976</td>
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Schedule 1

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<th>Provision affected</th>
<th>How affected</th>
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<td>Schedule</td>
<td>ad. No. 126, 1976</td>
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Schedule 2

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<th>How affected</th>
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</tr>
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<td>Schedule</td>
<td>ad. No. 126, 1976</td>
</tr>
<tr>
<td>Schedule 2</td>
<td>rs. No. 189, 1991</td>
</tr>
</tbody>
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### Table of Amendments

<table>
<thead>
<tr>
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<th>How affected</th>
</tr>
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<td><strong>Schedule 3</strong></td>
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<td>rep. No. 126, 1976</td>
</tr>
<tr>
<td>Schedule</td>
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<td>Heading to Schedule 3</td>
<td>ad. No. 126, 1976</td>
</tr>
<tr>
<td>Third Schedule</td>
<td>ad. No. 38, 1962</td>
</tr>
<tr>
<td><strong>Schedule 4</strong></td>
<td></td>
</tr>
<tr>
<td>Schedule 4</td>
<td>ad. No. 189, 1991</td>
</tr>
<tr>
<td><strong>Schedule 5</strong></td>
<td></td>
</tr>
<tr>
<td>Schedule 5</td>
<td>ad. No. 189, 1991</td>
</tr>
</tbody>
</table>
Note 2

Subsection 25(1)—As at 1 July 2007, no Proclamation had been published in the Gazette and no denunciation by Australia of the Warsaw Convention had been made.

Note 3

Civil Aviation (Carriers’ Liability) Amendment Act 1991 (No. 189, 1991)

Part IIIB (sections 25D-25G, 22H), sections 27 and 42 are amended by sections 9, 11(1) and 13(1) of the Civil Aviation (Carriers’ Liability) Amendment Act 1991, subsection 2(2) of which provides as follows:

(2) Section 9 and subsections 11(1) and 13(1) commence on a day to be fixed by Proclamation, being a day not earlier than that on which the Montreal Protocol No. 3 enters into force for Australia.

The amendments are set out below:

9 After Part IIIA of the Principal Act the following Part is inserted [see NOTE 1 below]

Part IIIB—Carriage to which the Montreal No. 3 Convention applies

25D Interpretation

In this Part:

the Convention means the Montreal No. 3 Convention.

25E Effect of Convention in Australia

(1) Subject to this Part, the Convention has the force of law in Australia in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.
(2) A reference in this Part to the Convention is to be read, unless the contrary intention appears, as a reference to the provisions of the Convention as having the force of law because of this section.

25F Application of certain provisions of Part IV

Sections 35 to 39 (inclusive) apply to carriage to which the Convention applies in the same way as they apply to carriage under Part IV, and for that purpose:

(a) a reference in section 37 to Part IV is taken to be a reference to this Part and the Convention; and

(b) any other reference to Part IV is taken to be a reference to the Convention.

25G Jurisdiction of State courts preserved

For the purposes of section 38 of the *Judiciary Act 1903*, an action under the Convention is taken not to be a matter arising directly under a treaty.

22H Evidence of certain matters [see NOTE 2 below]

(1) The Minister may, by notice published in the *Gazette*, from time to time declare:

(a) who are the Parties to the Convention; and

(b) the territory in respect of which any Party is bound by the Convention; and

(c) the extent to which any Party has availed itself of a reservation permitted by the Convention.

(2) A notice under this section is evidence of the matters declared.

11 Application of Part

(1) Section 27 of the Principal Act is amended by inserting in subsection (1) “, the Montreal Protocol No. 3” after “the Hague Protocol”.

13 Stowaways

(1) Section 42 of the Principal Act is amended by inserting in subsection (1) “, Part IIIB” after “Part III”.
Subsections 7(3)(b) and 8(3)(b) of the Civil Aviation (Carriers’ Liability) Amendment Act 1991 provide as follows [see NOTE 1 below]:

7 Effect of Convention in Australia

(3) If section 10 commences before section 9:
   (b) on the commencement of section 9, section 25A is amended by omitting “II, III and IIIC” and substituting “II, III, IIIB and IIIC”.

8 Modification of other Parts

(3) If section 10 commences before section 9:
   (b) on the commencement of section 9, section 25B of the Principal Act is amended by inserting “, in Part IIIB (other than section 25E)” before “and in Part IIIC”.

NOTE 1: Ss. 25A and 25B—The operation of subsections 7(3)(b) and 8(3)(b) of the Civil Aviation (Carriers’ Liability) Amendment Act 1991 are contingent upon section 9 of the same Act coming into operation. Subsections 7(3)(b) and 8(3)(b) commenced on 11 December 1991 and are not incorporated in this compilation.

NOTE 2: Schedule (item 43) of the Transport and Communications Legislation Amendment Act (No. 2) 1993 provides as follows:

43 Section 22H

Renumber the section as section 25H.

Schedule (item 43) commenced on Royal Assent (18 January 1994).

As at 1 July 2007 the amendments are not incorporated in this compilation.
Table A

Application, saving or transitional provisions

Civil Aviation Legislation Amendment Act 1998 (No. 1, 1998)

Schedule 1

13 Modification of regulations

(1) Any regulations that were in force immediately before the commencement of this Schedule for the purposes of Part IVA of the Civil Aviation (Carriers’ Liability) Act 1959 as in force at that time have effect as if references in those regulations to the Minister were references to CASA.

(2) Subitem (1) does not prevent regulations that have effect as mentioned in that subitem from being amended or repealed by further regulations made under the Civil Aviation (Carriers’ Liability) Act 1959.


4 Application of Amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.