

Annex to this Schedule limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside the Colony in respect of the death of the passenger in question.

SECOND SCHEDULE (Article 3)

The Bahamas

CARRIAGE BY AIR (NON-INTERNATIONAL CARRIAGE) (COLONIES, PROTECTORATES AND TRUST TERRITORIES) ORDER, 1953

S.I. 1953 No. 1206⁴

Made..... 1st August 1953

Laid before Parliament..... 4th August 1953

Coming into Operation 1st October 1953

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

Present,

The Queen's Most Excellent Majesty in Council

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

22 & 23 Geo. 5.
c. 36.

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

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

Short title.

⁴ As amended by S.I. 1955/710 and S.I. 1961/2318.

Interpretation.

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

S.I. 1955/710.

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

* * * * *

“the Act” means the Carriage by Air Act, 1932;

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“territory” means any of the territories to which this Order applies in accordance with the provisions of Article 7 of this Order.

52 & 53 Vict.
c. 63.

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

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

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

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

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

Power to restrict
application of
Order.

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

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

6.

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

Application of
Order.

FIRST SCHEDULE (Article 4)

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

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

SECOND SCHEDULE (Article 3)

CHAPTER I SCOPE

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

2. (2) This Schedule does not apply to the carriage of postal packets performed under the terms of any international postal convention nor to the carriage of postal packets as defined in the Post Office Acts, 1908 to 1840⁵(d),

CHAPTER II DOCUMENTS OF CARRIAGE: AIR CONSIGNMENT NOTE

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

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

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

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

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

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

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

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

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

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

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

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