

Carriage by Air Bill

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Bill No: 17/1988

Read the first time: 29th July 1988

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Explanatory Statement

Expenditure of Public Money

Carriage By Air Bill

Bill No. 17/1988

Read the first time on 29th July 1988.

An Act to give effect to the provisions of the Warsaw Convention concerning international carriage by air and the Convention as amended by the Hague Protocol and for purposes connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Carriage by Air Act 1988 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

“amended Convention” means the Warsaw Convention as amended by the Hague Protocol as set out in the First Schedule;

“Convention” means the Warsaw Convention as set out in the Second Schedule, unamended by the Hague Protocol or any other Protocol;

“court” includes (in an arbitration allowed by the Convention or amended Convention) an arbitrator;

“Hague Protocol” means the Protocol to amend the Warsaw Convention opened for signature at the Hague on 28th September 1955;

“Warsaw Convention” means the Convention for the unification of certain rules relating to international carriage by air opened for signature at Warsaw on 12th October 1929.

Conventions to have force of law

3.—(1) Subject to this Act, the provisions of the Convention and the amended Convention shall, so far as they relate to the rights and liabilities of carriers, carriers’ servants and agents, passengers, consignors, consignees and other persons, have the force of law in Singapore in relation to any carriage by air to which the Convention or the amended Convention, as the case may require applies, irrespective of the nationality of the aircraft performing that carriage.

(2) If there is any inconsistency between any of the texts set out in the First and Second Schedules and the authentic text in the French language of the Warsaw Convention or the Hague Protocol, as the case may be, the authentic French text shall prevail.

(3) Subsection (1) shall not apply so as to affect rights or liabilities arising out of an occurrence before the commencement of this Act.

Certification of High Contracting Parties

4.—(1) The Minister may by order published in the *Gazette*, from time to time certify who are the High Contracting Parties to the Convention and the High Contracting Parties to the amended Convention, in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of the Additional Protocol at the end of the Convention and the amended Convention.

(2) Article 40A(2) in the First Schedule shall not be read as extending references in that Schedule to the territory of a High Contracting Party (except such as are references to the territory of any State, whether a High Contracting Party or not) to include any territory in respect of which that High Contracting Party is not a party.

(3) An order in force under this section shall be conclusive evidence of the matters so certified.

(4) An order made under this section may contain such transitional and other consequential provisions as appear to the Minister to be expedient.

Fatal accidents

5. References in section 12 of the Civil Law Act (Cap. 43) to a wrongful act, neglect or default shall include references to any occurrence which gives rise to liability under Article 17 in the First and Second Schedules.

Limitations of liability

6.—(1) It is hereby declared that the limitations on liability in Article 22 in the First and Second Schedules shall apply whatever the nature of the proceedings by which liability may be enforced and that, in particular —

- (a) those limitations shall apply where proceedings are brought by a tortfeasor to obtain a contribution from another tortfeasor; and
- (b) the limitation for each passenger in Article 22(1) in the First and Second Schedules shall apply to the aggregate liability of the carrier in all proceedings which may be brought against him under the law of Singapore, together with any proceedings brought against him outside Singapore.

(2) A court before which proceedings are brought to enforce a liability which is limited by Article 22 in the First or Second Schedule 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 that Article, and of any other proceedings which have been, or are likely to be, commenced in Singapore or elsewhere to enforce the liability in whole or in part.

(3) Without prejudice to subsection (2), a court before which proceedings are brought to enforce a liability which is limited by Article 22 in the First or Second Schedule shall, where the liability is, or may be, partly enforceable in other proceedings in Singapore or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional on the result of any other proceedings.

(4) The Minister may, by order published in the *Gazette*, from time to time specify the respective amounts which for the purposes of Article 22 in the First and Second Schedules, are to be taken as equivalent to the sums expressed in francs which are mentioned in that Article.

(5) References in this section to Article 22 in the First Schedule include, subject to any necessary modifications, references to that Article as applied by Article 25A in the First Schedule.

Notice of partial loss

7. In Article 26(2) in the First and Second Schedules, the references to damage shall be construed as including loss of part of the baggage or cargo in question and the references to the receipt of baggage or cargo shall, in relation to loss of part of it, be construed as receipt of the remainder of it.

Time for bringing proceedings

8.—(1) No action against a carrier's servant or agent which arises out of damage to which the Convention or the amended Convention relates shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) Article 29 in the First and Second Schedules shall not be read as applying to any proceedings for contribution between persons liable for any damage to which the Convention or the amended Convention relates.

(3) Subject to sections 4 and 29 of the Limitation Act (Cap. 163), no action shall be brought by a person, liable for any damage to which the Convention or the amended Convention relates, to recover contribution from any other person in respect of such damage after the expiration of two years from the time when a court gives judgment or makes an award against the person seeking to recover the contribution.

(4) Subsections (1), (2) and (3) and Article 29 in the First and Second Schedules shall have effect as if references in those provisions to an action included references to an arbitration; and section 30(3) and (4) of the Limitation Act (which determine the time at which an arbitration is deemed to be commenced), shall apply for the purposes of this subsection.

Contributory negligence

9. It is hereby declared that, for the purposes of Article 21 in the First and Second Schedules, the provisions of the Contributory Negligence and Personal Injuries Act (Cap. 54) are provisions of the law of Singapore under which a court may exonerate the carrier wholly or partly from his liability.

Power to exclude aircraft in use for military purposes

10.—(1) The Minister may by order published in the *Gazette* direct that this section shall apply, or shall cease to apply, to Singapore or any other State specified in the order.

(2) The amended Convention shall not apply to the carriage of persons, cargo and baggage for the military authorities of a State to which this section applies in aircraft registered in that State if the whole capacity of the aircraft has been reserved by or on