Draft Order in Council laid before Parliament under sections 183(7) and 184(4) of the Merchant Shipping Act 1995, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. XXXX

MERCHANT SHIPPING

The Merchant Shipping (Convention Relating to the Carriage of Passengers and their Luggage by Sea) Order 2014

Made - - - - 2014

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the day of 2014

Present,

The Queen's Most Excellent Majesty in Council

It appears to Her Majesty in Council that the government of the United Kingdom has agreed to the Protocol of 2002(**1**) to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and that the Protocol revises the Convention. In consequence of those revisions She considers that modifications should be made to Parts I and II of Schedule 6 to the Merchant Shipping Act 1995(**2**).

A draft of this Order has, in accordance with sections 183(7) and 184(4) of the Merchant Shipping Act 1995, been laid before Parliament and approved by a resolution of each House of Parliament.

Her Majesty, in exercise of the powers conferred by sections 183(4) and (6) and 184(1) and (3) of the Merchant Shipping Act 1995, is pleased, by and with the advice of Her Privy Council, to order as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Merchant Shipping (Convention Relating to the Carriage of Passengers and their Luggage by Sea) Order 2014 and comes into force on the day after the date on which it is made.

(2) In this Order—

"the Act" means the Merchant Shipping Act 1995; and

(**1**) Cm 8760.
(**2**) 1995 c.21.

"the Protocol of 2002" means the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974.

Amendment of Schedule 6 to the Act

2.—(1) In Schedule 6 to the Act, for Part I (text of Convention) substitute the Part I set out in the Schedule to this Order.

(2) In paragraph 4 of Part II (provisions having effect in connection with the Convention) of Schedule 6 to the Act, for "46,666" substitute "400,000".

(3) After paragraph 9 of Part II of Schedule 6 to the Act insert—

"**9A.** The provisions of the Convention in Part I of this Schedule have effect subject to the reservation made by the United Kingdom (see the reservation set out in the Annex II to Regulation (EC) No 392/2009 of 23 April 2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents)."(**3**).

Application of the Convention within the British Islands

3. The provision made by article 2 of this Order does not affect the operation of the Carriage of Passengers and their Luggage by Sea (Domestic Carriage) Order 1987(**4**), and accordingly references in that Order to Schedule 6 to the Act are to be read as references to that Schedule as it had effect immediately before the coming into force of this Order.

Revocation

4. The Carriage of Passengers and their Luggage by Sea (Interim Provisions) Order 1980(**5**) is revoked.

Application to the Crown.

5. This Order shall bind the Crown.

Review

6.—(1) The Secretary of State must from time to time —

(a) carry out a review of article 2 of this Order;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must so far as is reasonable have regard to how other states which are parties to the Protocol of 2002 have implemented it.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by that article;

(b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(**3**) O. J.No. L.131, 28.5.2009, p.24.
(**4**) S.I.1987/670. Following the repeal and re-enactment of section 16 of the Merchant Shipping Act 1979 (c.39) this order has effect as if made under section 184 of the Act.
(**5**) S.I.1980/1092.

(4) The first report under this article must be published before 23rd April 2019.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

Clerk of the Privy Council

SCHEDULE Article 2

New Part I to be substituted in Schedule 6 to the Act

"Part I

Text of the convention

ARTICLE 1

Definitions

In this Convention the following expressions have the meaning hereby assigned to them:

1

(a) "carrier" means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by that person or by a performing carrier;

(b) "performing carrier" means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

(c) "carrier who actually performs the whole or a part of the carriage" means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier;

2 "contract of carriage" means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;

3 "ship" means only a seagoing vessel, excluding an air-cushion vehicle;

4 "passenger" means any person carried in a ship,

(a) under a contract of carriage, or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;

5 "luggage" means any article or vehicle carried by the carrier under a contract of carriage, excluding:

(a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and

(b) live animals;

6 "cabin luggage" means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;

7 "loss of or damage to luggage" includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

8 "carriage" covers the following periods:

(a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;

(b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;

(c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

9 "international carriage" means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;

10 "Organization" means the International Maritime Organization;

11 "Secretary-General" means the Secretary-General of the Organization.

ARTICLE 1 bis

Annex

The annex to this Convention shall constitute an integral part of the Convention.

ARTICLE 2

Application

1 This Convention shall apply to any international carriage if:

(a) the ship is flying the flag of or is registered in a State Party to this Convention, or

(b) the contract of carriage has been made in a State Party to this Convention, or

(c) the place of departure or destination, according to the contract of carriage, is in a State Party to this Convention.