Draft Order in Council laid before Parliament under section 8A of the Carriage by Air Act 1961, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1999 No.

CIVIL AVIATION

The Carriage by Air Acts (Implementation of Protocol No. 4 of Montreal, 1975) Order 1999

Made - - - -	*1999*
Coming into force - -	*1999*

At the Court at [ ], the [ ] day of [ ] 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament and has been approved by a resolution of each House of Parliament, in accordance with section 8A of the Carriage by Air Act 1961(**1**);

Whereas it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom has agreed to a revision of the Warsaw Convention as amended at The Hague, 1955;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 8A of the Carriage by Air Act 1961, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Citation, commencement and effect

1.—(1) This Order may be cited as the Carriage by Air Acts (Implementation of Protocol No. 4 of Montreal, 1975) Order 1999 and shall come into force on the tenth day after the day on which it is made.

(2) Nothing in this Order shall affect rights and liabilities arising out of an occurrence which took place before the coming into force of this Order.

Amendments of the Carriage by Air Act 1961

2.—(1) The Carriage by Air Act 1961 shall be amended as follows.

(**1**) 1961 c. 27. Section 8A was inserted by section 3(1) of the Carriage by Air and Road Act 1979 (c. 28) which came into force on 22nd October 1998 under S.I.1998/2562.

(2) For section 1 there shall be substituted the following section–

"**Convention to have the force of law**

1.—(1) Subject to this section–

(a) the provisions of the Convention known as "the Warsaw Convention as amended at the Hague, 1955" as set out in Schedule 1 to this Act ("the Convention"); and

(b) the provisions of that Convention as further amended by Protocol No. 4 of Montreal, 1975 and as set out in Schedule 1A to this Act ("the Convention as amended"),

shall, so far as they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees and other persons, and subject to the provisions of this Act, have the force of law in the United Kingdom in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage.

(2) In relation to Community air carriers–

(a) in respect of damages up to the equivalent in euros of 100,000 Special Drawing Rights arising from the death, wounding or other bodily injury suffered by a passenger, the provisions of Article 20 of the Convention or the Convention as amended; and

(b) in respect of damages arising from the death, wounding or other bodily injury suffered by a passenger, the provisions of Articles 21 and 22(1) of that Convention,

do not have the force of law in the United Kingdom.

(3) If there is any inconsistency between the text in English in Part I of Schedule 1 or 1A to this Act and the text in French in Part II of that Schedule, the French text shall prevail.".

(3) In section 2(1)–

(a) after the words "High Contracting Parties to the Convention" there shall be inserted the words "or the Convention as amended"; and

(b) for the words "the Convention as set out in the First Schedule" there shall be substituted the words "that Convention as set out in Schedule 1 or 1A".

(4) In sections 2(2), 3, 4(1), 4A(2)(**2**), 5(2), 6, 7(2), 10(1) and 11(b) for the words "the First Schedule" there shall be substituted the words "Schedule 1 or 1A".

(5) In sections 5(1) and (2) and 10(1) after the words "the Convention" there shall be inserted the words "or the Convention as amended".

(6) After Schedule 1 there shall be inserted, as Schedule 1A, the provisions set out in the Schedule to this Order.

Amendments of the Carriage by Air (Supplementary Provisions) Act 1962

3.—(1) The Carriage by Air (Supplementary Provisions) Act 1962(**3**) shall be amended as follows.

(2) In section 2(1)(b) for the words "the Convention as set out in the First Schedule" there shall be substituted the words "whichever is applicable to the carriage in question of the Conventions set out in Schedules 1 and 1A".

(3) In section 3(1) and (3) for the words "the First Schedule" there shall be substituted the words "Schedule 1 or 1A".

(4) In section 5(2)–

(**2**) Section 4A(2) was inserted by section 2(1) of the Carriage by Air and Road Act 1979.
(**3**) 1962 c. 43.

(a) for the words "the First Schedule" there shall be substituted the words "Schedules 1 and 1A"; and

(b) for the words "the Convention set out in that Schedule" there shall be substituted the words "the Conventions set out in those Schedules".

Clerk of the Privy Council

SCHEDULE

Provisions inserted, as Schedule 1A, in the Carriage by Air Act 1961

"SCHEDULE 1A

THE WARSAW CONVENTION WITH THE AMENDMENTS MADE IN IT BY THE HAGUE PROTOCOL AND PROTOCOL NO. 4 OF MONTREAL, 1975

PART 1

THE ENGLISH TEXT

CONVENTION

for the Unification of Certain Rules relating to International Carriage by Air

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 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) This 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 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).