

The Air Carrier Liability Order 1998 No. 187

(as amended and as applied to the Isle of Man)
by Civil Aviation (Subordinate Legislation) (Application) Order 1998 (SD593/98)

Citation and commencement

1. This Order may be cited as the Air Carrier Liability Order 1998

Interpretation

2. In this Order—

“Council Regulation” means Council Regulation (EC) No. 2027/97 of 9th October 1997 on air carrier liability in the event of accidents;

“non-Community air carrier” means an air carrier established outside the Community operating to, from or within the Community; and other expressions have, in so far as the context admits, the same meaning as in the Council Regulation.

Amendments

3. The Carriage by Air Act 1961 shall be amended as follows:

- (1) After section 1(1) there shall be inserted the following subsection—

“(1A) In relation to Community air carriers—

- (a) in respect of damages up to the equivalent in ecus of 100,000 SDR arising from the death, wounding or other bodily injury suffered by a passenger, the provisions of Article 20 of the Convention; 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 the Convention, do not have the force of law in the United Kingdom.”

- (2) For section 14(2) there shall be substituted the following:

“(2) In this Act—

“the Council Regulation” means Council Regulation (EC) No. 2027/97 of 9th October 1997 on air carrier liability in the event of accidents;

“Community air carrier”, “SDR” and “ecu” have the meaning given by Article 2 of the Council Regulation; and “court” includes (in an arbitration allowed by the Convention) an arbitrator.”

4. In the Carriage by Air Acts (Application of Provisions) Order 1967, after article 5A there shall be inserted the following article:

“Application of the air carrier liability Regulation

5B.—(1) In relation to Community air carriers:

- (a) in respect of damages up to the equivalent in ecus of 100,000 SDR arising from the death, wounding or other bodily injury suffered by a passenger, Article 20 of

Commented [DR(1)]: How was this applied? Not seen this before

Part III of Schedule 1 and Article 20(1) of Part B of Schedules 2 and 3 to this Order;

- (b) in respect of damages arising from the death, wounding or other bodily injury suffered by a passenger Article 21 of Part III of Schedule 1 and of Part B of Schedules 2 and 3 to this Order; and
- (c) in respect of damages arising from the death, wounding or other bodily injury suffered by a passenger Article 22(1) of Part III of Schedule 1 and of Part B of Schedules 2 and 3 to this Order, do not have the force of law in the United Kingdom.”.

5. Omitted

Offences

6.—(1) A Community air carrier which fails to include the provisions contained in Articles 3 and 5 of the Council Regulation in its conditions of carriage in accordance with Article 6.1 of that Regulation shall be guilty of an offence.

(2) A Community air carrier which fails to ensure that:

- (a) the information required to be made available on request to passengers by paragraph 2 of Article 6 of the Council Regulations is so made available; or
- (b) its ticket document or an equivalent contains the summary of the requirements contained in Articles 3 and 5 of the Council Regulation as required by paragraph 2 of Article 6 of that Regulation,

shall be guilty of an offence unless it proves that the failure to do so occurred without its consent or connivance and that it exercised all due diligence to prevent the failure.

(3) A non-Community carrier which does not apply the provisions in Articles 3 and 5 of the Council Regulation and which fails to ensure that the information or the form required to be provided to passengers by paragraph 3 of Article 6 of the Council Regulation is so provided shall be guilty of an offence unless it proves that the failure to do so occurred without its consent or connivance and that it exercised all due diligence to prevent the failure.

7.—(1) A person guilty of an offence under this Order shall be liable—

- (a) on summary conviction, to a fine not exceeding **£5,000**, and
- (b) on conviction on indictment, to a fine.

(2) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any such person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations ... and that offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a partner, he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly