



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

AIR NAVIGATION
(SPECIAL PROVISIONS)
ACT, No. 55 OF 1992

[Certified on 6th November, 1992]

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Air Navigation (Special Provisions)
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AN ACT TO AMEND THE AIR NAVIGATION ACT; TO GIVE EFFECT TO THE CONVENTION KNOWN AS THE "WARSAW" CONVENTION AS AMENDED AT THE HAGUE; TO REGULATE THE PROVISION OF ACCOMMODATION IN AIRCRAFTS; TO MAKE PROVISION FOR THE SAFETY AND SECURITY OF AIRPORTS, AIRCRAFT PASSENGERS AND USERS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Air Navigation Short title.
(Special Provisions) Act, No. 55 of 1992.

PART I

AMENDMENTS TO THE AIR NAVIGATION ACT

2. Section 20 of the Air Navigation Act (hereinafter in this Part of this Act referred to as the "principal enactment") is hereby repealed and the following section is substituted therefor:—

Amendment
of section
20 of
Chapter 365.

"Appointment
of Director-
General
of Civil
Aviation.

20. (1) There may be appointed, for the purposes of this Act—

- (a) a person, by name or by office to be or to act as, Director-General of Civil Aviation;
- (b) one or more persons, by name or by office, to be or to act as, Directors of Civil Aviation; and
- (c) such other officers, servants and agents as may be necessary for carrying out or giving effect to the provisions of this Act.

(2) The Director-General of Civil Aviation shall exercise, perform and discharge such powers, duties and functions as may be conferred, or imposed upon, or assigned to, him, by this Act or as may be delegated to him by the Minister

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(3) Every Director of Civil Aviation may, subject to the general direction and control of the Director-General of Civil Aviation, exercise, perform and discharge any or all of the powers, duties and functions conferred or imposed on, or assigned to, the Director-General of Civil Aviation by, or under this Act."

Amendment of section 21A of the principal enactment.

3. Section 21A of the principal enactment is hereby amended by the repeal of subsections (8) and (9) of that section and the substitution therefor of the following subsections:—

" (8) All movable and immovable property vested in the Director of Civil Aviation and made available to the Agent by the Minister under this Act, shall with effect from January 20, 1982, be deemed to be property held by the Agent for and on behalf of the State and it shall be lawful for the Agent to deal with such property, subject to subsection (9), in any manner whatsoever.

(9) The Agent shall maintain in good order all movable and immovable property which it holds for and on behalf of the State and shall not give such immovable property on lease for any period in excess of a period of ten years without the prior consent in writing of the Secretary to the Ministry of the Minister."

Amendment of section 35 of the principal enactment.

4. Section 35 of the principal enactment is hereby amended by the substitution respectively, for the words "two thousand rupees", of the words "twenty-five thousand rupees" and for the words "one year", of the words "two years".

Transitional provision.

5. (a) Where in any provision of the principal enactment or in any regulation made thereunder, the words "Director of Civil Aviation" occurs, there shall be substituted the words "Director-General of Civil Aviation".

(b) Wherever in any provision of any written law, (other than the principal enactment) or in any notice, certificate, communication, form or other document issued or made, by or under such written law, the words

“Director of Civil Aviation” is used to denote the Director of Civil Aviation appointed under the principal enactment prior to the commencement of this Act, there shall be substituted therefor, the words “Director-General of Civil Aviation”.

(c) Every contract, agreement, document or instrument whatsoever made, issued or executed prior to the date of commencement of this Act, by or in favour of the Director of Civil Aviation appointed under the principal enactment in his capacity as such, shall be deemed, from and after that date, to be and to have been made, issued or executed by, or in favour of, as the case may be, the Director-General of Civil Aviation.

PART II

WARSAW—HAGUE CARRIAGE BY AIR CONVENTION

6. (1) The Articles contained in the Schedule to this Act, being the provisions of the Convention known as “The Warsaw Convention as amended at the Hague” (in this Part of this Act referred to as “the Convention”) shall in so far as they relate to the rights and liabilities of carriers, passengers, consignors, consignees and other persons and subject to the provisions of this Part of this Act have the force of law in Sri Lanka in relation to any carriage by air to which the Convention applies, irrespective of the nationality of the aircraft performing that carriage.

Provisions of
Warsaw
Convention
as amended
at the
Hague to
apply to
Sri Lanka.

(2) The Minister may, by Order from time to time published in the *Gazette*, certify who are the High Contracting Parties to the 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 to the Convention, and any such Order, shall, except in so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

(3) Any liability imposed by Article 17 of the Convention 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 under any law, whether statutory or otherwise, for the time being in force in Sri Lanka, and the provisions of the Second

Schedule to the Air Navigation Act 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.

(4) The Minister may, with the approval of the Minister in charge of the subject of Finance, from time to time, by Order published in the *Gazette* specify the respective amounts which for the purposes of Article 22 of the Convention are to be taken as equivalent to the sums expressed in francs in that Article.

Provisions
of the
Additional
Protocol to
apply with
necessary
modification.

7. Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol thereto shall, for the purpose of any suit brought in a court in Sri Lanka in accordance with the provisions of Article 28 of the Convention to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that court, and accordingly any such suit may be maintained in that court. Rules made or deemed to have been made for that purpose under Article 136 of the Constitution may provide for the manner in which any such suit is to be commenced or carried on.

Modification
of Convention
Provisions

8. (1) The provisions of the Schedule to this Act shall apply to such carriage by air, not being international carriage by air as defined therein, subject to the following modifications:—

- (a) by the omission of the word "international" in Article 1 (1) thereof;
- (b) by the deletion of Articles 1 (2), 1 (3), 2 (2), 28, and 34 thereof;
- (c) by the omission of Chapter II thereof and the Additional Protocol thereto;
- (d) by the omission in Article 26 (1) thereof, of the words commencing from "and" to the end of that paragraph;
- (e) by the omission in Article 32 thereof of the words commencing from "if" to the end of that paragraph.

(2) Nothing in Part III of the Air Navigation Act shall apply in respect of any carriage by air to which the Convention applies.

PART III

AIR TRANSPORTATION

9. (1) The Minister may, by Order published in the *Gazette* declare that, with effect from such date as may be specified in the Order (hereinafter in this Part of this Act referred to as the "appointed date") no person shall carry on the business of air transportation in Sri Lanka except under the authority of, or otherwise than in accordance with, the terms or conditions, of a licence issued in that behalf by the Director-General of Civil Aviation appointed under the Air Navigation Act (hereinafter in this Part of this Act referred to as "the Director-General of Civil Aviation") on application made therefor and on payment of the prescribed fee.

Director-
General of
Civil Avia-
tion to issue
licences.

In this Part of this Act "business of air transportation" means making available, as the operator of an aircraft or as principal or agent, accommodation for the carriage of persons or cargo or mail, on flights by aircraft (whether registered in Sri Lanka or not) in any part of the world, including flights to and from Sri Lanka.

(2) No licence shall be issued under subsection (1) to any person, unless such person—

(a) satisfies the Director-General of Civil Aviation that—

(i) he is capable of carrying on the business of air transportation and has a licence or registration, for the time being in force, issued under the Ceylon Tourist Board Act, No. 10 of 1966, to carry on business as a travel agent; and

(ii) his resources and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities relating to air transportation, if any, in which he is presently engaged and in which he may be expected to engage in, if he is issued the licence.

(3) An operator of an aircraft applying for a licence under subsection (1) shall not be required to furnish a bank guarantee under paragraph (b) of subsection (2).

(4) No licence issued under this Act shall be transferable and any transfer made in contravention of this prohibition shall be null and void.

(5) Every person carrying on business of air transportation under a licence issued under subsection (1) shall maintain such records as may be prescribed, and shall furnish to the Director-General of Civil Aviation such returns, information or explanation as he may from time to time be required to furnish by the Director-General of Civil Aviation for the purposes of this Part of this Act.

Power of
the Director-
General
of Civil
Aviation to
revoke a
licence.

10. (1) The Director-General of Civil Aviation, may, by order, revoke a licence issued by him under subsection (1) of section 9 if he is satisfied that the holder of the licence—

(a) has ceased to carry on the business in respect of which the licence has been issued ; or

(b) has improperly obtained the licence contrary to the provisions of this Act ; or

(c) is a company, any of the principal officers of which have been convicted of an offence connected with the business of the company and involving moral turpitude ; or

(d) has ceased to possess any qualification required by subsection (2) of section 9 for the issue of such licence ;

(e) has contravened any of the provisions of this Part of this Act.

(2) No order under subsection (1) shall be made against a person except after notice to him, to show cause within such period as may be specified in the notice, why such order should not be made.

(3) Any person against whom an order is made under subsection (1) may prefer an appeal in writing to the Secretary before the expiry of ten days after the date on which such order is communicated to that person by the Director-General of Civil Aviation, and such Secretary may, in dealing with any appeal preferred to him under this subsection, affirm, vary or annul the order against which the appeal has been preferred.

(4) An order under subsection (1) revoking a licence issued to a person shall come into force on the date on which such order is communicated to that person by the Director-General of Civil Aviation and shall continue to be in force notwithstanding that an appeal against such order has been preferred to the Secretary.

(5) The decision of the Secretary upon an appeal preferred to him under subsection (3) shall be final and conclusive and shall not be called in question in any court or tribunal.

11. (1) The Director-General of Civil Aviation or any officer authorized by him in writing under his hand, may--

Power to enter and inspect premises.

(a) for the purpose of ascertaining whether the provisions of this Part of this Act or any regulations made thereunder are being complied with, enter, with the permission of the licence-holder and inspect, at all reasonable hours of the day or night, the premises in which the business of air transportation is being carried on under the authority of a licence issued under subsection (1) of section 9;

(b) inspect and take copies of any records or returns required by or under this Part of this Act to be kept in respect of such business and of any other records relating to such business.

(2) Where the Director-General of Civil Aviation has reasonable grounds to believe that the provisions of this Part of this Act or regulations made thereunder are being contravened, he may, after obtaining a warrant under

hand of a Magistrate, enter and inspect any premises specified in such warrant and take into custody, any ticket stocks or other documents used in connection with, the commission of an offence under this Part of this Act.

Offences and penalties.

12. Any person who—

- (a) carries on the business of air transportation in contravention of section 9 ;
- (b) resists or obstructs the Director-General of Civil Aviation or any person authorized by him in the exercise by such Director-General or such person, of the powers conferred on him by section 11 ;
- (c) fails to maintain any such records as he is required to maintain under section 9(5) ;
- (d) fails to furnish any such return, information or explanation as he is required to furnish under section 9(5) ;
- (e) knowingly makes any false or incorrect statement in any such record, return, information or explanation;
- (f) fails to comply with any other provision of this Part of this Act or any regulation made thereunder,

shall be guilty of an offence under this Part of this Act.

(2) When an offence under this Part of this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate ; or
- (b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

(3) Every person who is guilty of an offence under this Act, shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment.

(4) Where any person carrying on business of air transportation under the authority of a licence issued under subsection (1) of section 9 is convicted by a court of competent jurisdiction of any offence under this Part of this Act and no appeal against such conviction is preferred or the conviction is confirmed in appeal, the Director-General of Civil Aviation may without notice revoke such licence under this subsection and such revocation shall be final and conclusive and shall not be called in question in any court or tribunal.

13. (1) The Minister in consultation with the Minister in charge of the subject of Tourism, may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Part of this Act and in particular in respect of all or any of the following matters :—

Regulations.

- (a) the period for which and the terms and conditions subject to which, licences may be issued under subsection (1) of section 9 ;
- (b) the mode and manner in which applications for licences under subsection (1) of section 9 may be made and disposed of ;
- (c) any matter which is required by this Part of this Act to be prescribed or in respect of which regulations are required to be made by this Part of this Act ;
- (d) the standards to be observed by holders of licence issued under subsection (1) section 9.

(2) The Minister in charge of the subject of Finance may in consultation with the Minister in charge of the subject of Civil Aviation and the Minister in charge of the subject of Tourism, make regulations under this Part of this Act for and in respect of all or any of the following matters :—

- (a) the sale of passenger tickets for travel by aircraft and the bookings of passages for travel by aircraft ;
- (b) the collection of freight charges on exports by aircraft ;

- (c) the collection of freight charges on imports by aircraft where contract for such carriage of freight is made in Sri Lanka ;
- (d) the furnishing of all such statements or declarations by holders of licences issued under subsection (1) of section 9 as may be necessary to ensure that the regulations made under this section are complied with, including such details as to—
 - (i) the traffic documents issued during any month whether or not any cash collections were involved in such issue ;
 - (ii) the total of cash collections effected in any month from sale of passenger tickets and from freight charges ;
 - (iii) refunds granted against air transportation documents issued in Sri Lanka.

(3) Every regulation made under subsection (1) or subsection (2) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made under subsection (1) or subsection (2) shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

PART IV

SECURITY OF AIRPORTS AND AIRCRAFTS

Security of
aircrafts
airports &c.

14. The purposes to which this Part of the Act applies shall be the protection against the acts, which affect the safety and security of—

- (a) aircraft and of persons or property on board aircraft ;
- (b) airports and of such persons or property as are at any time present in any part of an airport or of property which forms part of an airport ; and
- (c) any navigation installations which do not form part of an airport.

15. (1) The Director-General of Civil Aviation appointed under the Air Navigation Act (hereinafter in this Part of this Act referred to as "the Director-General Civil Aviation") may, by notice in writing served on any person who is the operator of one or more aircrafts registered or operating in Sri Lanka or the Agent managing any Airport in Sri Lanka require such person or Agent to inform the Director-General of Civil Aviation within a period not exceeding four weeks from the date of the notice, of the measures of a description specified in the notice, which are being taken in respect of the aircraft registered or operating in Sri Lanka of which he is the operator or in respect of that airport, as the case may be, for the purposes referred to in section 14.

Director-General of Civil Aviation to issue notice on operators of aircraft and the Agent.

(2) Any person who—

- (a) refuses or without reasonable excuse, fails to comply with a requirement imposed on him by a notice under subsection (1) ; or
- (b) in furnishing any information in compliance with any such requirement, makes a statement which he knows is false in a material particular or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence under this Act and shall upon conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees.

16. (1) For the purposes referred to in section 14 the Director-General of Civil Aviation may give a direction in writing to the operator of any one or more aircrafts registered or operating in Sri Lanka or to the Agent in respect of any airport in Sri Lanka managed by him, requiring the operator or the Agent as the case may be—

Director-General of Civil Aviation to issue directions.

- (a) not to cause or permit any person or property to go or be taken, on board any aircraft to which the direction relates or to come or be brought into proximity to any such aircraft, unless such searches of those persons or that property as are specified in the direction have been carried out by authorized security personnel ;

(b) not to cause or permit any such aircraft to fly unless such searches of the aircraft as are specified in the direction have been carried out by authorized security personnel.

(2) Any person who fails to comply with any direction given to him under this subsection shall be guilty of an offence under this Act and shall be liable upon conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees.

(3) For the purposes referred to in section 14, the Director-General of Civil Aviation may give a direction in writing to the Manager of an airport requiring him to allow the search of such airport including searches—

(a) of the airport or any part of it ;

(b) of any aircraft which at the time when the direction is given or at any subsequent time is in any part of the airport ; and

(c) of persons or property (other than aircraft) which may at any such time be in any part of the airport.

(4) Where a direction given under this section to the Manager of an airport is for the time being in force, then if an authorised security personnel has reasonable cause to suspect that a dangerous article is in or may be brought into any part of the airport, he may, by virtue of this subsection and without a warrant, search any part of the airport or any aircraft, vehicle, goods or other movable property of any description which, or any person, who, is for the time being in any part of such airport, and for that purpose—

(a) may enter any building in such airport or enter upon any land in the airport, if need be by force ; and

(b) may stop and detain any such aircraft, after obtaining the concurrence of the Manager of the airport ;

(c) may stop and detain such vehicle, goods, property or person and detain it or him so long as it is necessary for a proper search and in accordance with the law.

(5) Any person who—

- (a) refuses or fails to comply with a direction given to him under subsection (3); or
- (b) obstructs or impedes a person acting in the exercise of a power conferred on him by subsection (4),

shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate for a fine not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding two years or both such fine and imprisonment.

(6) It shall be an offence for any person without lawful authority or reasonable excuse (the proof of which shall be on him) to have with him any dangerous article—

- (a) in any aircraft registered in Sri Lanka, whether at a time when the aircraft is in Sri Lanka or not; or
- (b) in any other aircraft at a time when it is in, or in flight over, Sri Lanka; or
- (c) in any part of an airport in Sri Lanka or at the entrance to an airport; or
- (d) in any air navigation installation in Sri Lanka which does not form part of an airport.

(7) For the purposes of this section, the words "dangerous article" means—

- (a) any firearm or any article having the appearance of being a firearm, whether capable of being discharged or not;
- (b) any explosive, any article manufactured or adapted (whether in the form of a grenade or otherwise so as to have the appearance of being an explosive) whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is, or contains, an explosive; and
- (c) any article made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property or intended by the person having it with him for such use, whether by him or any other person.

(8) Every person guilty of an offence under subsection (6) shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding three years.

The Agent to maintain airport security service.

17. The Agent shall, for the purposes set out in to section 15 maintain an Airport Security Service (hereinafter referred to as the 'Security Service') within the limits of any airport which is administered by him on behalf of the Government of Sri Lanka.

Duties of the member of the Security Service.

18. It shall be the duty of every member of the Security Service maintained under section 17—

- (a) to protect and safeguard the property of the Government of Sri Lanka and of the Agent and to reasonably ensure the safety of persons who enter or use the airport and where so directed, of the aircraft and other equipment which are within the limits of airport;
- (b) to use his best endeavours and ability to prevent all breaches of law and nuisances within the airport;
- (c) to apprehend any disorderly and suspicious person within the airport;
- (d) to do any other thing which is necessary or which is required or ordered by the Agent to protect and safeguard the property of the Government of Sri Lanka or the Agent and the persons who enter or use the airport;
- (e) to otherwise assist in the compliance with any direction given to the Agent by the Director-General of Civil Aviation in relation to safety and security of the airport, its users and property within including aircraft.

Powers of the member of the Security Service.

19. (1) It shall be lawful for any member of the Security Service maintained under section 17 to detain within the limits of the airport—

- (a) any person who commits or is committing an offence under this Part of this Act or under the Offences Against Aircraft Act, No. 24 of 1992;
- (b) any person against whom reasonable suspicion exists that he is about to commit an offence under this Part of this Act, or the Offences Against Aircraft Act, No. 24 of 1982;

- (c) any person against whom a reasonable suspicion exists that he had aided and abetted the commission of any offence under this Part of this Act or the Offences Against Aircraft Act, No. 24 of 1982 ;
- (d) any person having in his custody or possession, without lawful excuse, any offensive or dangerous weapon ;
- (e) any person in possession of goods reasonably suspected to be property stolen or fraudulently obtained :

Provided, however that where there is reason to believe that such person has acted or is acting in contravention of any of the provisions of the Customs Ordinance, such person shall be handed over forthwith to a customs officer to be dealt with in accordance with the provisions of that Ordinance ;

- (f) any person who is committing an offence within the airport being an offence in respect of which a person may be arrested without a warrant, under section 32 of the Code of Criminal Procedure Act, No. 15 of 1979 ;
- (g) any person who is committing theft of or damage to, any property belonging to or in the possession of the Government of Sri Lanka or the Agent ;
- (h) any person who is found within the airport in circumstances which provide reason to believe that such person has committed, or is about to commit theft of, or damage to, any property belonging to, or in the possession of the Government of Sri Lanka or the Agent ;
- (i) any person found taking precautions to conceal his presence under circumstance which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979 or an offence under this Part of this Act or the Offences Against Aircraft Act, No. 24 of 1982.

(2) Any person detained under subsection (1) shall unless released, be forthwith handed over to a police officer to be dealt with according to law.

Powers of
any member
of the
Security
Service,
to search,

20. It shall be lawful for any member of the Security service maintained under section 17 to search any person including his belongings or any conveyance used by such person within the premises of the airport when he has reason to believe that such person has committed a cognizable offence within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979, or any offence under this Part of this Act or the Offences Against Aircraft Act, No. 24 of 1982 or is about to commit such offence :

Provided, however, that where it is necessary to cause a woman to be searched, such search shall be made by another woman with strict regard to decency.

Steps to
be taken
case of
fire.

21. In all cases of fire or any other calamity occurring within an airport, every member of the Security Service maintained under section 17 on duty within such airport, shall take steps to protect the persons and property endangered thereby.

Protection
for action
taken
in good
faith
under
this Part
of this
Act.

22. No suit or prosecution shall lie against a member of the Security Service, maintained under section 17 the Agent or the Government of Sri Lanka in respect of any act which is in good faith done, or purported to be done or omitted to be done, by a member of such Security Service, under this Part of this Act or in respect of the safety or security of persons or property within or outside an airport.

The cadre &c.,
of the
Security
Service
to be
approved
by the
Secretary.

23. The cadre of the Security Service maintained under section 17 and the nature, type and quantity of firearms and ammunition for the use of such service and which may be carried by any member thereof shall have the prior approval of the Secretary.

Interpreta-
tion.

24. In this Part of this Act, unless the context otherwise requires—

“Agent” has the same meaning as in the Air Navigation Act ;

“airport” has the same meaning as in the Air Navigation Act ;

“authorised security personnel” means a member of the Security Services maintained by Agent under section 17 and includes any member of the Armed Forces or Police Force who is performing, or is called upon to perform, his duties within the airport ;

“Manager of the airport” means the Manager appointed by the Agent in respect of an airport or the person acting as Manager of the airport ;

“operator” in relation to an aircraft, means the person for the time being having the management of the aircraft ; and

“Secretary” means the Secretary to the Ministry of the Minister in charge of the subject of Civil Aviation.

25. In the event of an inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala
text to
prevail in
case of
inconsis-
tency.

SCHEDULE

(Section 6)

WARSAW CONVENTION AS AMENDED AT THE HAGUE
CHAPTER 1—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 transshipment, 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 of 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) This Convention shall not apply to carriage of mail and postal packages.

CHAPTER II—DOCUMENTS OF CARRIAGE

Section I—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 (I) (c) does not include the notice required by paragraph (I) (c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).

SECTION 3 — AIR WAYBILL

Article 5

(1) Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

(1) The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

(2) The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee", it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

(3) The carrier shall sign prior to the loading of the cargo on board the aircraft.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

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

Article 8

The air waybill 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 consignor 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 of or damage to cargo.

Article 9

If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).

Article 10

(1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.

(2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.

Article 11

(i) The air waybill is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

(2) The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated ; those 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 waybill to have been checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 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 journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring it to be returned to the aerodrome of departure. He must not exercise this right or 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 impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) 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 waybill or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 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 hand over to him the air waybill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage set out in the air waybill.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14

H

The consignor and consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15

(1) Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air way bill.

(3) Nothing in this Convention prevents the issue of a negotiable air waybill.

Article 16

(1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information of documents, unless the damage is due to the fault of the carrier or his servants or agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III—LIABILITY OF THE CARRIER

Article 17

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

(1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof of the contrary, to have been the result of an event which took place during the carriage by air.

Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

Article 20

The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22

(1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

(4) The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

(5) The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.

Article 23

(1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

(2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

Article 24

(1) In the cases covered by Articles 18 and 19 any action for damages, however founded can only be brought subject to the conditions and limits set out in this Convention.

(2) In the cases covered by Article 17, the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25

The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

Article 25A

(1) If an action is brought against a servant or agent or the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

(2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 26

(1) Receipt by the person entitled to delivery of baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing dispatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28

(1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the court seized of the case.

Article 29

(1) The right to damages shall be extinguished if an action is not brought within 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) The method of calculating the period of limitation shall be determined by the law of the court seized of the case.

Article 30

(1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV—PROVISIONS RELATING TO COMBINED
CARRIAGE

Article 31

(1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

(2) Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V—GENERAL AND FINAL PROVISIONS

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction shall be null and void. Nevertheless for the carriage of cargo, arbitration clauses are allowed subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34

The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35

The expression "days" when used in this Convention means current days not working days.

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