

Carriage by Air (Montreal Convention, 1999) Bill

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Bill No: 29/2007

Read the first time: 16th July 2007

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THE SCHEDULE Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 28th May 1999)

Explanatory Statement

Expenditure of Public Money

Carriage by Air (Montreal Convention, 1999) Bill

Bill No. 29/2007

Read the first time on 16th July 2007.

An Act to give effect to the provisions of the Montreal Convention, 1999 concerning international carriage by air and for purposes connected therewith, and to make related amendments to the Carriage by Air Act (Chapter 32A of the 2001 Revised Edition).

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 (Montreal Convention, 1999) Act 2007 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 —

“Convention” means the Convention for the unification of certain rules relating to international carriage by air opened for signature at Montreal on 28th May

1999, the text of which is set out in the Schedule;

“court”, in relation to any arbitration proceedings allowed by Article 34 of the Convention, means the arbitrator or arbitration tribunal hearing the arbitration;

“regulations” means regulations made under section 13.

Convention to have force of law

3.—(1) Notwithstanding any other written law or rule of law but subject to this Act, the provisions of the 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 applies irrespective of the nationality of the aircraft performing that carriage.

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

State Parties to Convention

4. For the purposes of this Act, a State Party to the Convention refers to any country that has ratified, accepted, approved or acceded to the Convention in accordance with Article 53 thereof, except that this Act shall apply to any such State Party to the Convention only in respect of such of its territorial units as it has, by a declaration made under Article 56 of the Convention, declared to be a territorial unit to which the Convention is to apply.

Liability for fatal accidents under Article 17 of Convention

5. References in section 20 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 of the Convention.

Limitations of liability under Article 22 of Convention

6.—(1) The limitations on liability under Article 22 of the Convention shall apply whatever the nature of the proceedings by which liability may be enforced.

(2) The limitation for each passenger under paragraph 1 of Article 22 of the Convention shall apply to the aggregate liability of the carrier in all proceedings which may be brought against the carrier under the law of Singapore, together with any proceedings brought against the carrier outside Singapore.

(3) A court before which proceedings are brought to enforce a liability which is limited by Article 22 of the Convention may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of —

- (a) the provisions of that Article; and
- (b) 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.

(4) Without prejudice to subsection (3), a court before which proceedings are brought to enforce a liability which is limited by Article 22 of the Convention shall, where the liability is, or may be, partly enforceable in other proceedings in Singapore or elsewhere, have jurisdiction —

- (a) to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or
- (b) to make any part of its award conditional on the result of any other proceedings.

Power to amend Schedule arising from review of limits of liability under Article 24 of Convention

7. Where any limit of liability prescribed by Article 21, 22 or 23 of the Convention has been revised under Article 24 of the Convention, the Minister may, by order published in the *Gazette*, amend the Schedule to append thereto, immediately after the text of the Convention, an addendum specifying how the limit of liability has been revised and the date on which such revision is to take effect.

Notice of partial loss under Article 31 of Convention

8. In paragraph 2 of Article 31 of the Convention, 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

9.—(1) No action against a carrier's servant or agent which arises out of damage to which the Convention relates shall, if he was acting within the scope of his employment, be brought after more than 2 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 35 of the Convention shall not be read as applying to any proceedings for contribution between persons liable for any damage to which the 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 relates, to recover

contribution from any other person in respect of the damage after the expiration of 2 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 35 of the Convention shall have effect as if references in those provisions to an action included references to an arbitration.

Insurance coverage under Article 50 of Convention

10.—(1) The Minister may by regulations make such provisions as may be necessary to give effect to Article 50 of the Convention in relation to the insurance that a carrier must maintain to cover its liability under the Convention.

(2) Regulations made for the purposes of subsection (1) may —

- (a) prescribe the minimum limits of insurance coverage that a carrier must have in respect of any liability that may be incurred by it under the Convention;
- (b) require any carrier to furnish evidence and other particulars relating to the policy of insurance held by the carrier for the purposes of Article 50 of the Convention and provide for the method and procedure by which such evidence and other particulars are to be furnished; and
- (c) provide for the prohibition of any aircraft from landing in, or taking off from, Singapore if the carrier operating that aircraft is not adequately or sufficiently insured.

Power to exclude aircraft in use for military purposes

11.—(1) The Minister may, by order published in the *Gazette*, direct that the provisions of the Convention shall not apply to either or both —

- (a) international carriage by air performed and operated directly by any State Party to the Convention for non-commercial purposes in respect to its functions and duties as a sovereign state;
- (b) the carriage of persons, cargo and baggage for the military authorities of any State Party to the Convention on aircraft registered in or leased by that State Party to the Convention, the whole capacity of which has been reserved by or on behalf of such authorities.

(2) No order under subsection (1) shall be made in respect of any State Party to the Convention unless that State Party to the Convention has made a declaration under Article 57 of the Convention.