

Carriage By Air Law, 1980

Definitions

(Amended 1998)

1. In this Law -

'The Warsaw Convention' -- Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12th October, 1929, and published in the Official Gazette;

'The Hague Protocol' -- Protocol to Amend the Warsaw Convention, signed at the Hague on the 28th September, 1955, and published in the Official Gazette;

'The Guadalajara Convention' -- The Convention, supplementary to the Warsaw Convention, Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18th September, 1961;

'The Guatamala Protocol' -- The Protocol to Amend the Warsaw Convention and the Hague Protocol, signed at Guatemala on 8th March. 1971;

'The First Protocol' -- Additional Protocol No.1 to Amend the Warsaw Convention, signed at Montreal on the 25th September, 1975;

'The Second Protocol' -- Additional Protocol No. 2 to Amend the Warsaw Convention as Amended by the Hague Protocol, signed at Montreal on 25th September, 1975;

'The Third Protocol' -- Additional Protocol No. 3 to Amend the Warsaw Convention as Amended by the Hague Protocol and the Guatemala protocol, signed at Montreal on 25th September, 1975;

'The Fourth Protocol' -- Protocol No. 4 to Amend the Warsaw Convention as Amended by the Hague Protocol, signed at Montreal on 25th September, 1975;

'The Convention' -- the Warsaw Convention, the Hague Protocol, the Guadalajara Convention, the Guatemala Protocol and the First, Second, Third and Fourth Protocols, as applicable;

'Territory of a State', including territories represented by it in their foreign relations;

'Domestic Carriage' -- carriage by air in which, the place of departure and the place of destination, according to the terms of the agreement between the parties, are situated within the territory of Israel, and there is not an agreed stopping place outside of Israel ;

'Extra-Conventional Carriage' -- carriage by air, other than domestic carriage, to which sections 2 to 4 do not apply and to which the laws of the State of Israel apply.

Carriage Between States which are Parties to the Warsaw Convention

2. The provisions of the Warsaw Convention will apply to any carriage by air, where the place of departure and the place of destination, according to the terms of the agreement between the parties, are situated within the territories of two states parties to the Warsaw Convention or are situated within the territory of a one state party to the Convention and there is an agreed stopping place within the territory of another state.

Carriage Between States Parties to the Hague Protocol

3. The provisions of the Warsaw Convention, as amended by the Hague Protocol, will apply to carriage by air in which, the place of departure and the place of destination, according to the terms of the agreement between the parties, are situated within the territories of two states parties to the Hague Protocol or are situated within the territory of a one state party to Hague Protocol and there is an agreed stopping place within the territory of another state.

Notification in the Official Gazette on coming into force

4. The Minister of Transport may notify in the Official Gazette (Reshumot) the coming into force of the Guadalajara Convention, the Guatemala Protocol and the First, Second, Third and Fourth Protocols or of all or some of them in respect carriage of goods by air as prescribed therein and they will be published in the Official Gazette (Reshumot).

Provided that -

Domestic Carriage and Extra-conventional Carriage

5. (a) Subject as provided in section 8, the provisions of the Convention which have been published in the Official Gazette (Reshumot) will apply, mutatis mutandis, to the domestic carriage and extra-conventional carriage:

(1) the amount of compensation which may be imposed on the carrier will not exceed the amount fixed by the Warsaw Convention as amended by the Hague Protocol;

(2) when the Minister of Transport has given notice in the Official Gazette (Reshumot), according to Section 4, of the coming into force of the Guatemala Protocol or the Third Protocol, the amount of compensation will be as provided

in the said protocols, as the case may be;

(b) For the purpose of the application of the Convention to extra-conventional carriage, every reference in the Convention to a contracting state will be construed as including any state in which the contractual place of departure or place of destination is situated even if such state is not a party to the Convention.

Supplementary Damages.

6. (a) The Minister of Transport will, in consultation with the Minister of Finance and with the approval of the Economic Committee of the Knesset, enact by regulations provisions for supplementing damages payable to the claimant under the provisions of the Convention in the event of death or bodily injury. The Regulations will meet, inter alia, the following conditions:

- (1) they will not impose upon the carrier or his employees or any agents any additional obligation to pay compensation beyond the obligation imposed by the convention;
- (2) they may oblige carriers to collect contributions in Israel from passengers but will not impose an additional obligation on carriers;
- (3) they will not discriminate between carriers as to the passengers concerned and the benefits granted to passengers under the regulations will be given to them whosoever of the carrier who carried them may be;
- (4) every person who suffered damage by the death or bodily injury of a person who has paid contributions will be entitled to benefits under the regulations.

(b) An arrangement for supplementary damages under this section according to which passengers are to pay contributions for financing it will be deemed as insurance for the purposes of the Insurance Business Control Law - 1951, and the insurance will be conducted by an insurer within the meaning of that Law.

Place of Departure and Place of Destination

7. In carriage by air, the place of departure and place of destination will be deemed as agreed to between the parties, even if there is a break in the carriage or a transfer from one aircraft to another, during the performance thereof.

Authority to Modify Provisions of the Convention

8. The Minister of Transport may prescribe by Order –

(1) in respect of domestic carriage or any category thereof – that all or any of the provisions of the Convention, except Articles 2, 10, 11, 12, 13, 14, 15, 17, 18A, 19, 20, 21, 22, 23, 24, 25, 25A, 29, 30A, 32 and 34 of the Warsaw Convention and except the Guadalajara Convention, will not apply to such carriage, and may enact other provisions in their stead in the same matter.

(2) in respect of extra-conventional carriage – different provisions than those of the Convention, in respect of issuance of passenger tickets and luggage and freight tickets and as to jurisdiction.

Conversion to Israeli Currency

9. (a) In the awarding of any payment in an action under this Law or the Regulations thereunder, the Court may first determine the amount due from the defendant in foreign currency as provided by the Convention; in its Judgment or in a later decision, the Court will determine the amount of its award in Israeli Currency, according to the rate of exchange at the day of the judgment.

(b) Subsection (a) will apply to an action to which the First, Second, Third or Fourth Protocol applies – from the publication of the notice of the coming into force of the Protocol concerned.

(c) Before the publication of the notice referred to in Subsection (b), the

Minister of Transport may, in consultation with the Governor of the Bank of Israel and with the approval of the Finance Committee of the Knesset, prescribe in an Order, that the amount in foreign currency prescribed by Article 22 of the Convention will be replaced by an amount prescribed in the said Order, expressed in the special drawing rights referred to in the First, Second, Third and Fourth Protocol; and as long as the said Order has not been revoked or amended, the Order will continue to apply to an action under this Law or the regulations thereunder to which Subsection (a) does not apply.

(d) When an Order under Subsection (c) has been given, the Court may, on awarding a payment in an action under this Law or the Regulations thereunder, first determine the amount of the special drawing rights which is due from the defendant; in its judgment or at a later decision, the Court will determine the amount of the award in Israeli currency according to the exchange rate of such rights at the date of the judgment.

Exemption from Liability

10. The liability of the carrier, his employees and agents under this Law for damage, including damage resulting from the death of a passenger, will take the place of its liability under any other law, and a claim for compensation for the same damage other than under this Law, will not be heard, whether the cause thereof is an agreement, a tort, or any other cause and whoever the claimants may be.

State Making Reservation

11. The provisions of the Convention will not apply to carriage by air performed by a state which has declared so, by virtue of its right under the Convention.

Service of Summons out of Jurisdiction

12. In an action arising out of carriage by air to which this Law applies, the Court may grant leave for the service of the summons and other legal documents abroad.

Claims for Damage Resulting from Death of a Passenger

13. Where a claim is filed for damage resulting from the death of a passenger, the court which hears the claim may, at any stage of the legal proceedings, make any such order as it may deem just and expedient, having regard to -

- (1) the provisions of this Law limiting the liability of the carrier, his employees and agents;
- (2) the rights of other persons to claim damages, whether in or outside of Israel, for the death of that passenger;
- (3) other claims which have been or may be filed, whether in or outside of Israel, for the death of that passenger.

Damage Exceeding Liability of Carrier

14. Where there are several claimants as a result of the death of one passenger and the aggregate amount of damages due to all of them exceeds liability of the carrier under the other provisions of this Law, the court will award to each of them, out of the aggregate amount of damages due, an amount proportionate to the amount of damages which it would have awarded him.

Lapse of Right to Claim Damages

15. Notwithstanding anything provided in any other law, the period for the lapse of the right to claim damages under this Law will be the period fixed by the Convention.

Parties to the Convention

16. A notice by the Minister of Transport, published in the Official Gazette (Reshumot), regarding the States which are parties to the Convention will be evidence for the purposes of this Law.

Implementation and Regulations

17. (a) The Minister of Transport is charged with the implementation of this Law and may make regulations for its implementation.

(b) The Minister of Justice may, in consultation with the Minister of Transport, make regulations concerning procedure in actions for damage arising out of carriage by air to which this Law applies.

Repeal

18. The Carriage by Air Law - 1962 - is hereby repealed.

Commencement

19. This law will come into effect six months from its publication in the Official Gazette (Reshumot).

Publication

20. This Law will be published within thirty days from the date of its acceptance by the Knesset.

Menahem Begin

Prime Minister

Haim Landau

Minister of Transport

Yitzhak Navon

President of the State

