

PARLIAMENT OF CEYLON

3rd Session 1949-50



Air Navigation Act, No. 15 of 1950

Date of Assent : March 29, 1950

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L. D.—O. 19/49.

AN ACT TO GIVE EFFECT TO CERTAIN INTERNATIONAL CONVENTIONS RELATING TO AIR NAVIGATION AND CARRIAGE BY AIR, TO MAKE PROVISION FOR THE GENERAL REGULATION AND CONTROL OF AIR NAVIGATION, AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: March 29, 1950.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Air Navigation Act, No. 15 of 1950, and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Short title
and date of
operation.

2. (1) Regulations may be made under this Act empowering the Minister by Order to grant exemption from any of the provisions of this Act to such classes or description of aircraft or persons as may be prescribed in the regulations or to any aircraft or person belonging to any such prescribed class or description of aircraft or persons, to such extent or subject to such terms, conditions or restrictions as may be so prescribed.

Power to
grant
exemption
from
operation
of Act.

(2) The Minister may, on the occurrence of any public emergency, by Order exempt any aircraft or person or class or description of aircraft or persons from any of the provisions of this Act to such extent or subject to such terms, conditions or restrictions as may appear to him to be necessary in the public interest, notwithstanding that he is not empowered to do so by regulations referred to in sub-section (1).

(3) Every Order made by the Minister in pursuance of the regulations referred to in sub-section (1) or the powers conferred by sub-section (2) shall be as valid and effectual as though it were herein enacted.

PART I

Air Navigation

Power to
give
effect to
Chicago
Convention
and to
regulate
air
navigation.

3. (1) Regulations may be made under this Act providing for all such matters as the authority empowered to make such regulations may deem requisite or expedient—

(a) for carrying out the Chicago Convention, any Annex thereto relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and any amendment of the Convention or any such Annex made in accordance with the Convention; or

(b) generally for regulating air navigation.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), regulations may be made under this Act for or with respect to all or any of the following matters :—

(a) the registration of aircraft in Ceylon;

(b) the prohibition of aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to them and except upon compliance with such conditions as to maintenance and repair as may be specified in the regulations;

(c) the licensing, inspection, regulation and control of aerodromes and the prohibition or regulation of the use of unlicensed aerodromes;

(d) the access to aerodromes and places where aircraft have landed, the access to aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof, and the prohibition of trespassing on aerodromes;

(e) the prohibition of the engagement or employment of persons in or (except in the maintenance at unlicensed aerodromes of aircraft not used for or in connection with commercial, industrial or other gainful purposes) in connection with, air navigation in such capacities as may be specified in the regulations except in accordance with provisions in that behalf contained in the regulations, and the

licensing of those employed at licensed aerodromes in the inspection or supervision of aircraft;

- (f) the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Ceylon may fly, and the conditions under which aircraft may fly from one part of Ceylon to another;
- (g) the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes and the prohibition of the carriage by air of goods of such classes as may be specified in the regulations;
- (h) the minimization or prevention of the interference with the use or effectiveness of apparatus used in connection with air navigation, and the prohibition or regulation of the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;
- (i) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and of persons and property carried therein, the prevention of aircraft from endangering other persons and property and, in particular, the detention of aircraft for any of the purposes specified in this paragraph;
- (j) the supply of meteorological information for the purposes of air navigation by persons engaged in, or employed in or in connection with, such navigation;
- (k) the regulation of the making of signals and other communications by or to aircraft and persons carried therein;
- (l) the regulation of the use of the civil air ensign and any other ensign established by the Minister for purposes connected with air navigation;
- (m) the prohibition of the flying of aircraft over such areas in Ceylon as may be specified in the regulations;
- (n) the application, adaptation or modification of the enactments relating to customs in relation to aerodromes and to aircraft and to persons and property carried therein and the prevention of smuggling by air;

- (o) the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the regulations (including the examinations and tests to be undergone), and the form, custody, production, cancellation, suspension, endorsement and surrender of any such document;
- (p) the regulation of the charges that may be made for the use of aerodromes and for services provided at such aerodromes;
- (q) prescribing the fees to be paid in respect of the issue, validation, renewal, extension, or variation of any certificate, licence or other document or the undergoing of any examination or test required by the regulations and in respect of any other matters for which it appears to the authority empowered to make the regulations to be expedient for the purposes of the regulations to charge fees;
- (r) the regulation and control of the conditions under which noise and vibration may be caused by aircraft on aerodromes and the application of the provisions of section 4 to any aerodrome as respects which provision as to noise and vibration caused by aircraft is so made.

(3) Regulations referred to in paragraph (m) of subsection (2) may, for the purpose of securing compliance with any provision thereof, provide for the taking of such steps (including firing on aircraft) as may be specified in the regulations.

Nuisance
caused by
aircraft
on aero-
dromes.

4. No action shall lie in respect of any nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome to which this section applies by virtue of any regulations made under this Act, so long as the provisions of such regulations are duly complied with.

Infringement
of patents.

5. (1) Save as otherwise provided in section 6, where it is alleged by any person interested that a foreign aircraft making a passage through or over Ceylon infringes in itself or in any part of it any invention, design or model which is entitled to protection in Ceylon, it shall be lawful, subject to and in accordance with rules made as hereinafter provided, to detain such aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this section referred to as "the deposited sum"), and thereupon the aircraft shall

not, during the continuance or in the course of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, in respect of or on account of the alleged infringement.

(2) The deposited sum shall be such a sum as may be agreed upon between the parties interested, or in default of agreement shall be fixed by the Minister or some person duly authorised by the Minister in that behalf, and payment thereof shall be made or secured to him in such manner as he shall approve. The deposited sum shall be dealt with by such court and in accordance with such procedure as may be prescribed by rules which are hereby authorised to be made under the Courts Ordinance for that purpose as well as for the purpose of providing generally for carrying this section into effect.

Cap. 6.

(3) For the purposes of this section and of section 6, the expression "owner" includes the actual owner of an aircraft, and any person claiming through or under him, and the expression "passage" includes all reasonable landings and stoppages in the course or for the purpose of a passage.

6. (1) Notwithstanding anything in section 5 of this Act or any other written law, any lawful entry into Ceylon, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in Ceylon, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

Exemption of
aircraft and
parts there-
of from
seizure, etc.
on patent
claims.

(2) Notwithstanding anything in section 5 of this Act or any other written law, the importation into, and storage in, Ceylon of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Ceylon on the ground that the spare parts or spare equipment or their installation is or are an infringement of any patent, design or model:

Provided, however, that the preceding provisions of this sub-section shall not apply in relation to any spare

parts or spare equipment which are sold or distributed in Ceylon or are exported from Ceylon for sale or distribution.

(3) This section applies to an aircraft registered in any country or territory in the case of which there is for the time being in force a declaration made by the Minister, with a view to the fulfilment of the provisions of the Chicago Convention, that the benefits of those provisions apply to that country or territory, and to such other aircraft as the Minister may by Order specify.

Special
powers in
case of
emergency.

7. (1) In time of war, whether actual or imminent, or of great national emergency, the Minister of Defence and External Affairs may by general or special Order regulate or prohibit, either absolutely or subject to such conditions as may be contained in the Order, the navigation of all or any descriptions of aircraft over Ceylon or any portion thereof, or the territorial waters adjacent thereto; and may, by the same or any subsequent Order, provide for taking possession of and using for the purposes of His Majesty's Naval, Military or Air Forces any aerodrome or landing ground, or any aircraft, machinery, plant, material or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance or establishment of any aerodrome, flying school, or landing ground, or any class or description thereof.

(2) An Order under this section may make, for the purposes of the Order, such provision as regulations under this Act may make by virtue of paragraph (m) of sub-section (2) of section 3.

(3) Any person who suffers direct injury or loss, owing to the operation of an Order of the Minister under this section, shall be entitled to receive compensation from the Minister of Defence and External Affairs from such moneys as may be provided by Parliament for the purpose, the amount thereof to be fixed, in default of agreement between the parties interested, by an arbitrator to be agreed upon between such parties or failing such agreement to be appointed by the Chief Justice:

Provided, however, that no compensation shall be payable by reason of the operation of a general order under this section prohibiting flying in Ceylon or any part thereof.

8. (1) (a) The Minister shall have power on behalf of the Government to establish and maintain aerodromes (including power to provide and maintain roads and approaches, buildings and other accommodation and apparatus and equipment for such aerodromes). Where the Minister certifies that any land is required for that purpose, the Minister charged with the subject of the administration of the Land Acquisition Ordinance may direct that Order be taken under that Ordinance for the acquisition of the land on behalf of the Government, and for determining the compensation to be paid to the parties interested in accordance with the provisions of that Ordinance :

Establishment
of
aerodromes.

Cap. 203.

Provided, however, that the preceding provisions of this sub-section shall not be construed as authorising the Minister to act otherwise than for the purposes of civil aviation.

(b) Where a direction is given by the Minister under paragraph (a) of this sub-section for the acquisition of any land, all the provisions of the Land Acquisition Ordinance shall apply in all respects in like manner as though the land were required for a public purpose.

(2) For the avoidance of doubts it is hereby declared that one of the purposes for which the Minister is empowered by this section to acquire land is the purpose of securing that the land adjacent to the site of an aerodrome which the Minister has established or is about to establish, shall not be used in such manner as to cause interference with, or danger or damage to, aircraft at, approaching or leaving the aerodrome.

9. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight or the ordinary incidents of the flight of aircraft over any property at a height above the ground which, having regard to wind, weather, and all the circumstances of the case is reasonable, so long as the provisions of this Act and any regulations or Orders made thereunder are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by an article or person falling from any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act,

Trespass,
nuisance,
and respon-
sibility for
damage.

neglect or default, except where the damage or loss was caused by or contributed to by the negligence of the person by whom the same was suffered:

Provided that where material damage or loss is caused as aforesaid in circumstances in which—

(a) some person other than the owner of the aircraft would under any other law having effect in Ceylon be liable to pay damages in respect of such damage or loss; and

(b) such damages are recoverable and recovered from the owner of the aircraft by virtue only of the provisions of this section,

the owner shall be entitled to be indemnified by that other person in respect of the damages so recovered from the owner.

(2) Where any aircraft has been *bona fide* demised, let, or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

Penalty
for
dangerous
flying.

10. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless such owner proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall each be guilty of an offence under this Act.

(2) For the purposes of this section, the expression "owner", in relation to an aircraft, includes any person by whom the aircraft is hired at the time of the offence.

(3) The provisions of this section shall be in addition to and not in substitution for any general safety or other provisions prescribed by any Order or regulations made under this Act.

Wreck and
salvage.

11. (1) Any services rendered in assisting or in saving life from, or in saving the cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or

on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where salvage services are rendered by an aircraft to any person or property, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

The preceding provisions of this sub-section shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters adjacent to any part of Ceylon.

(2) The Minister may make regulations directing that the provisions of any law for the time being in force in Ceylon which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the regulations, apply in relation to aircraft as those provisions apply in relation to vessels.

(3) For the purposes of this section, any provisions of any law for the time being in force in Ceylon which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

12. (1) Regulations may be made under this Act providing for the investigation of any accident arising out of or in the course of air navigation and occurring in or over Ceylon or the territorial waters adjacent thereto, or elsewhere to Ceylon aircraft.

Power to
provide for
investigation
into
accidents.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), regulations referred to in that sub-section may contain provisions—

•(a) requiring notice to be given of any such accidents as aforesaid in such manner and by such persons as may be specified in the regulations;

(b) applying, with or without modification, for the purpose of investigations held with respect to any such accidents the provisions of any law for the time being in force in Ceylon relating to the investigation of deaths and accidents;

- (c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- (d) authorising or requiring the cancellation, suspension, endorsement, or surrender of any licence or certificate granted in Ceylon under this Act or any Order or regulations made thereunder, or the withdrawal or suspension of any validation conferred in Ceylon of a licence granted by a duly competent authority elsewhere, where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed, or surrendered, or the validation withdrawn or suspended, as the case may be; and for the production of any such licence or certificate for the purpose of being so dealt with:

Provided that nothing in this section shall limit the powers of any authority under the Wrecks and Salvage Ordinance.

Cap. 267.

Indication of
presence of
obstructions
near
aerodromes.

13. (1) If the Minister is satisfied, with respect to any building, structure or erection in the vicinity of any aerodrome that, in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building, structure or erection, he may by Order authorise (subject to any conditions specified in the Order) the proprietor of the aerodrome, and any person acting under the proprietor's instructions,—

- (a) to execute, install, maintain, operate, and, as occasion requires, to repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the Order; and
- (b) so far as may be necessary for exercising any of the powers conferred by the Order to enter upon and pass over (with or without vehicles) any such land as may be specified in the Order:

Provided that no such Order shall be made in relation to any building, structure or erection if it appears

to the Minister that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid of the presence of the building, structure or erection.

(2) The Minister shall, before making any such Order as aforesaid, cause to be published, in such manner as he thinks best for informing persons concerned, notice of the proposal to make the Order and of the place where copies of the draft Order may be obtained free of charge, and take into consideration any representations with respect to the Order which may, within such period not being less than two months after the publication of the notice as may be specified therein, be made to him by any person appearing to him to have an interest in any land which would be affected by the Order; and at the end of that period the Order may, subject to the provisions of this section, be made with such modifications, if any, of the original draft as the Minister thinks proper.

(3) (a) Every such Order as aforesaid shall provide—

(i) that, except in a case of emergency, no works shall be executed on any land in pursuance of the Order, unless, at least fourteen days previously, the proprietor of the aerodrome to which the Order relates has served, in the manner prescribed by the Order, on the occupier of that land, and on every other person known by the proprietor to have an interest therein, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be prescribed by or in accordance with the Order; and

(ii) that if, within fourteen days after service of the said notice on any person having such an interest, the proprietor of the aerodrome receives a written intimation of objection on the part of that person to the proposals contained in the notice, being an intimation which specifies the grounds of objection, then, unless and except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific sanction of the Minister,

and shall also provide for requiring the proprietor of the aerodrome to which the Order relates to pay to any person having an interest in any land affected by the Order such compensation for any damage or loss which that person may suffer in consequence of the Order as may, in default of agreement between the parties interested, be determined from time to time by a single arbitrator appointed by the Chief Justice, and, for the purposes of this sub-section, any expenses reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an Order, and so much of any expenses incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an Order relates as are attributable to the operation of the Order, shall be deemed to be loss or damage suffered in consequence of the Order.

(b) Any compensation due under paragraph (a) of this sub-section from the proprietor of any aerodrome which is established or maintained by or on behalf of the Government shall be payable out of such moneys as may be provided for the purpose by Parliament.

(4) The ownership of anything shall not be taken to be affected by reason only that it is placed or affixed to, any land in pursuance of such an Order as aforesaid; and (subject to the provisions of the next following sub-section) so long as any such Order in respect of an aerodrome is in force, no person shall, except with the consent of the proprietor of the aerodrome wilfully interfere with any works or things which, to the knowledge of that person, are works or things, executed or placed in, on or over any land in pursuance of the Order.

(5) Nothing in this section shall operate, in relation to any building, structure or erection, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building, structure or erection, provided that—

(a) notice of the doing of that work is given as soon as may be to the proprietor of the aerodrome; and

(b) the giving of warning of the presence of the building, structure or erection in the manner provided by any Order under this section in force in relation thereto is not interrupted.

PART II

Additional Provisions Applicable to Civil Aviation

14. (1) Regulations may be made under this Act—

(a) requiring any person—

(i) who carries on the business of carrying passengers or goods in aircraft for hire or reward on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations; or

(ii) who is the holder of a licence in respect of a customs aerodrome,

to furnish to such authorities as may be specified in the regulations such information relating to the use of aircraft for the purpose of the said business and to the persons employed in connection with that use, or, as the case may be, relating to the use of the aerodrome and to the persons employed in aircraft arriving thereat or departing therefrom, as may be prescribed by the regulations;

(b) requiring the owner, or the pilot or other person in charge, of any aircraft arriving at, or departing from, any customs aerodrome to furnish to the holder of the licence in respect of that aerodrome such information as may be necessary to enable the holder of the said licence to comply with such of the provisions of the regulations as relate to him;

(c) prescribing the time at which, and the form and manner in which, any information required under the regulations is to be furnished:

Provided, however, that a person carrying on such a business as is mentioned in sub-paragraph (i) of paragraph (a) of this sub-section shall not be required to furnish information relating to the use of aircraft on journeys wholly outside Ceylon, or relating to persons exclusively employed outside Ceylon, unless the person carrying on the business is either a Citizen of Ceylon or a body corporate incorporated under the law of Ceylon.

Information
as to air
transport
undertakings
and use of
customs
aeródromes.

(2) (a) No information with respect to any particular undertaking which has been obtained by virtue of regulations referred to in this section shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of such regulations, and if any person discloses any such information in contravention of this sub-section he shall be guilty of an offence under this Act.

(b) Nothing in paragraph (a) of this sub-section shall apply to the disclosure of any information for the purposes of any legal proceedings which may be taken by virtue of that paragraph, or of any regulations referred to in this section or for the purpose of any report of any such proceedings, but, save as aforesaid, the restriction imposed by that paragraph shall, in relation to any legal proceedings (including arbitrations), extend so as to prohibit and prevent any person who is in possession of any such information so obtained from disclosing, and from being required by any court or arbitrator to disclose that information (whether as a witness or otherwise) except with the consent of the person carrying on the undertaking to which the information relates.

Licensing
of air
transport
and
commercial
flying.

15. (1) Regulations may be made under this Act—

(a) for securing that aircraft shall not be used in Ceylon by any person—

(i) for flying, while carrying passengers or goods for hire or reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) as may be specified in the regulations; or

(ii) for such flying undertaken for the purpose of any trade or business as may be so specified,

except under the authority of, and in accordance with, a licence granted to the said person by the licensing authority specified in the regulations;

(b) as to the circumstances in which a licence under the regulations may or shall be granted, refused, revoked or suspended, and in particular, as to the matters to which the licensing authority specified in

the regulations is to have regard in deciding whether to grant or refuse such a licence;

(c) as to appeals from the licensing authority by persons interested in the grant, refusal, revocation or suspension of any licence under the regulations;

(d) as to the conditions which may be attached to such a licence, (including conditions as to the fares, freight or other charges to be charged by the holder of the licence), and for securing compliance with any conditions so attached;

(e) as to the information to be furnished by an applicant for, or the holder of, such a licence to such authorities as may be specified in the regulations;

(f) for prescribing the fees to be paid in respect of the grant of any licence under the regulations,

and such regulations may make different provision as respects different classes of aircraft and different classes of licences.

(2) Nothing in this section shall be taken to affect the power under section 3 of giving effect by regulations to any provision or amendment of the Chicago Convention, being a provision or amendment which authorises the imposition of restrictions on the use of foreign aircraft.

PART III.—CARRIAGE BY AIR

16. (1) The Articles contained in the First Schedule, being the provisions of the Warsaw Convention, shall, 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 section, have the force of law in Ceylon 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
to have
force of
law.

(2) The Minister may, by Order from time to time published in the *Gazette*, certify who are the High Contracting Parties to the Warsaw 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 reference in the First Schedule to the territory of any High Contracting Party shall be construed as a reference to the territories subject to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party.

(4) Any liability imposed by Article 17 of the First Schedule 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 Ceylon, and the provisions of the Second Schedule 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.

(5) Any sum in francs mentioned in Article 22 of the First Schedule shall, for the purposes of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of any damages to be paid by the carrier is ascertained by the court.

Actions against
High Contract-
ing Parties
who undertake
carriage by
air.

Cap. 86.

Cap. 6.

17. (1) Every High Contracting Party to the Warsaw Convention who has not availed himself of the provisions of the Additional Protocol thereto shall, for the purposes of any suit brought in a court in Ceylon in accordance with the provisions of Article 28 of the First Schedule 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 notwithstanding anything in Chapter XXXII of the Civil Procedure Code. Rules which are hereby authorised to be made for that purpose under the Courts Ordinance may provide for the manner in which any such suit is to be commenced or carried on.

(2) Nothing in the preceding provisions of this section shall be deemed or construed to authorise any court to attach or sell any property of a High Contracting Party to the Warsaw Convention.

Application
of section
16 and
First
Schedule to
carriage by
air which
is not
international.

18. The Minister may, by Order published in the *Gazette*, apply the provisions of the First Schedule and any provision of section 16 to such carriage by air, not being international carriage by air as defined in that Schedule, as may be specified in the Order, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

19. For the purposes of this Part of this Act and the First and Second Schedules, the expression "Warsaw Convention" or "Convention" means the Convention for the unification of certain rules relating to international carriage by air which was signed at Warsaw on October 12, 1929, and any other Convention or agreement amending that Convention.

Definition
of Warsaw
Convention.

PART IV.—ADMINISTRATION

20. (1) There may be appointed, for the purposes of this Act, whether by name or by office,—

Appointment
of Director
of Civil
Aviation.

(a) a fit and proper person, to be or to act as the Director of Civil Aviation; and

(b) such other officers and servants as may be necessary for carrying out or giving effect to the provisions of this Act.

(2) The Director of Civil Aviation shall exercise, perform or discharge such powers, duties or functions as may be conferred or imposed upon, or vested in him by any Order or regulations made under this Act or as may be delegated to him by the Minister as hereinafter provided.

21. The Minister may, for the purposes of civil aviation, generally or specially, delegate to the Director of Civil Aviation any powers (other than the power to make regulations or Orders), duties or functions conferred or imposed upon, or vested in the Minister by or under this Act.

Delegation
of powers
by Minister.

22. Any sums required for the contribution from Ceylon for the International Civil Aviation Organisation set up under the Chicago Convention and all expenses incurred in the administration of this Act shall be payable out of such moneys as may be provided for the purpose by Parliament.

Expenses.

23. All sums paid or recovered by way of fees, charges or fines under this Act shall be payable into the Consolidated Fund.

Fees, &c. to
be paid into
Consolidated
Fund.

PART V.—REGULATIONS AND ORDERS

24. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

Regulations.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations in respect of all matters for which

regulations are required or authorised to be made under this Act.

Further matters which may be provided for by regulations.

25. Without prejudice to the generality of the powers hereinbefore conferred by this Act, regulations under this Act may—

- (a) make different provision with reference to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances and with respect to different parts of Ceylon but shall, so far as practicable, be so framed as not to discriminate in like circumstances between aircraft registered in Ceylon operated on charter terms by one air transport undertaking and such aircraft so operated by another such undertaking;
- (b) be made applicable to Ceylon aircraft wherever they may be;
- (c) prohibit, require or regulate the doing of anything by persons in, or any of the crew of, Ceylon aircraft wherever they may be; or
- (d) prohibit, require or regulate the doing of anything in relation to Ceylon aircraft by other persons, being Citizens of Ceylon, wherever they may be.

Power to provide for detention of aircraft.

26. Any Order or regulations made under this Act in relation to aircraft may provide for the detention of aircraft to secure compliance with the Order or regulations, as the case may be, or with any provisions of this Act in connection with which the Order or regulations is or are made and may make such further provision as appears to the authority empowered to make such Order or regulation, as the case may be, to be necessary or expedient for securing such detention.

Power to provide for certain transitional matters.

27. The power to make any Order or regulations conferred by any section of this Act shall include power to make provision that any certificate or licence or other document issued or validated, or any direction or permission or authorisation given, or any registration effected, under any law which has ceased to have effect as part of the law of Ceylon by virtue of any provision of this Act, shall, until revoked or superseded, remain in force as though the same has been issued or validated, given or effected under the Order or regulations so made, as the case may be, and that such Order or regulations, as the case may be, shall apply to any such certificate, licence or other document, or direction, permission, authorisation or registration.

28. Every regulation made under this Act shall be published in the *Gazette* and shall come into effect on such date as may be specified therein.

Regulations must be published in the *Gazette*.

29. Every regulation made under this Act shall, as soon as may be after it comes into effect as provided by the last foregoing section, be laid before the Senate and the House of Representatives; and if a resolution is passed by the Senate and the House of Representatives, within forty days after the regulation is so laid, that the regulation shall be annulled, the regulation shall with effect from the date of the resolution be void, but without prejudice to anything previously done thereunder.

Regulations must be laid before the Senate and the House of Representatives.

Every regulation which is not so annulled shall be as valid and effectual as though it were herein enacted.

30. The provisions of any law for the time being in force in Ceylon relating to the detention of ships may, with the necessary modifications, be applied by the Minister, by Order published in the *Gazette*, to the detention of aircraft.

Power to apply to aircraft provisions of law relating to detention of ships.

31. Regulations or Orders may be made by the Minister under this Act and, in the case of regulations, may be submitted to the Senate and the House of Representatives for approval, when this Act becomes law and takes effect as such in accordance with the provisions of section 36 of the Ceylon (Constitution) Order in Council, 1946, and before the date appointed by the Minister under section 1 as the date on which this Act shall come into operation: Provided, however, that no such regulation or order shall come into operation before that date.

Power to make regulations or Orders before commencement of Act.

PART VI.—MISCELLANEOUS

32. (1) Any offence under this Act, and any offence whatever committed on a Ceylon aircraft, shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender may for the time being be.

Jurisdiction.

(2) Rules which are hereby authorised to be made under the Courts Ordinance for the purpose may make provision as to the courts in which proceedings may be taken for enforcing any claim under this Act, or any other claim in respect of aircraft, and in particular may provide for conferring jurisdiction in any such proceedings on any court exercising Admiralty jurisdiction and applying to such proceedings any rules of practice or procedure applicable to proceedings in Admiralty.

Proof of
instruments
made or
issued by
Minister.

33. (1) Every document purporting to be an Order or other instrument, made or issued by the Minister in pursuance of any provision contained in, or having effect under, this Act, and to be signed by him or on his behalf, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by him.

(2) *Prima facie* evidence of any such instrument as aforesaid may in any legal proceedings be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister.

Offences.

34. Any person who—

(a) contravenes or fails to comply with any provision of any regulation or Order made under this Act; or

(b) obstructs or impedes any person in the exercise of his powers and duties under this Act or under any regulation or Order made thereunder,

shall be guilty of an offence under this Act.

Penalties.

35. Every person who is guilty of an offence under this Act shall on conviction be liable to a fine not exceeding two thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

Power of
court to
order
forfeiture.

36. Where any person is convicted of an offence under this Act, the court by which he is convicted may, in addition to any other penalty that may be imposed for the offence, direct that the aircraft or article, if any, in respect of which the offence was committed, shall be forfeited to His Majesty.

Offences
to be
cognizable
and to be
triable by
Magistrates.
Cap. 16.

37. All offences under this Act shall be cognizable offences for the purpose of the application of the provisions of the Criminal Procedure Code, notwithstanding anything contained in the First Schedule of that Code, and shall be triable summarily by a Magistrate.

Inter-
pretation.

38. (1) In this Act, unless the context otherwise requires,—

“ aerodrome ” means any definite or limited ground or water area intended to be used, either wholly or partly, for the landing or departure of aircraft and all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;

- “ aircraft ” means any machine that can derive support in the atmosphere from the reactions of the air;
- “ airship ” means any power-driven lighter-than-air aircraft;
- “ balloon ” means a non-power-driven lighter-than-air aircraft;
- “ Ceylon aircraft ” means aircraft registered in Ceylon under this Act;
- “ Chicago Convention ” means the Convention on International Civil Aviation which was signed at Chicago on December 7, 1944, as amended by any subsequent Convention or agreement;
- “ Citizen of Ceylon ” means a Citizen of Ceylon under any law for the time being in force;
- “ crew ”, in relation to an aircraft, includes any person having duties on board in connection with the flying or the safety of the flight of the aircraft or employed on board in any way in the service of the aircraft, the passengers or the cargo;
- “ Customs aerodrome ” means an aerodrome for the time being appointed as a place of landing and departure of aircraft for the purposes of the law relating to Customs;
- “ damage or loss ” includes in relation to persons, loss of life and personal injury;
- “ foreign aircraft ” means aircraft not registered in Ceylon under this Act;
- “ flying machine ” includes all aeroplanes, seaplanes, flying boats, or other aircraft heavier than air and having means of propulsion;
- “ glider ” means a non-power driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;
- “ land ” includes land covered with water and any right in or over land;
- “ licensed aerodrome ” means an aerodrome licensed under regulations made under this Act;
- “ proprietor of the aerodrome ” means, in relation to any premises used or appropriated for use as an aerodrome, the person carrying on or entitled to carry on the business of an aerodrome in those premises, or, in

the case of an aerodrome which is established or maintained by or on behalf of the Government, the officer in charge of the aerodrome;

“ Schedule ” means a Schedule to this Act.

(2) Any reference in this Act to goods or articles shall be construed as including a reference to mails or animals, and any reference in this Act to any country or territory shall, unless the context otherwise requires, be construed as including a reference to the territorial waters, if any, adjacent to that country or territory.

(3) In this Act, the expression “ purposes of civil aviation ” includes all purposes connected with air navigation, except purposes of the defence of Ceylon by air.

(4) Any reference in the First Schedule to agents shall be construed as including a reference to servants.

Air Navigation Acts, &c. to cease to have effect as part of the law of Ceylon.

39. (1) The Air Navigation Acts, 1920 to 1947, of the United Kingdom, and any Order in Council made thereunder, shall cease to have effect as part of the law of Ceylon.

(2) The Carriage by Air Act, 1932, of the United Kingdom, and any Order in Council made thereunder, shall cease to have effect as part of the law of Ceylon.

Savings of certain regulations.

40. The Air Navigation Regulations, 1938, and the Air Navigation (Customs) Regulations, 1938, shall continue in force as though they were regulations made under this Act and may be amended or rescinded by regulations so made.

Non-application of the Act and the Orders and regulations made thereunder.

41. The provisions of this Act or of any Orders or regulations made thereunder shall not apply to any aircraft or aerodrome exclusively employed or used in the service or for the purposes of His Majesty's naval, military or air forces:

Provided that the Minister of Defence and External Affairs may, by Order published in the *Gazette*, apply, with or without modification, any such provisions to any such aircraft or aerodrome.

FIRST SCHEDULE

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, luggage or goods 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 contract made by 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 a territory subject to the sovereignty, suzerainty, mandate or authority of another power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

(3) A 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 a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

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 does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.—DOCUMENTS OF CARRIAGE

SECTION 1.—PASSENGER TICKET

Article 3

(1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;

- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

(2) 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 the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

SECTION 2.—LUGGAGE TICKET

Article 4

(1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

(4) The absence, irregularity or loss of the luggage 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 the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) above, the carrier shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

SECTION 3.—AIR CONSIGNMENT NOTE

Article 5

(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; 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 consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(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 goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign on acceptance of the goods.

(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 consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

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

Article 8

The air consignment note shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22 (2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;

- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10

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

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

(1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, 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 goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

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 goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them 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 consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of 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 goods without requiring the production of the part of the air consignment note 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 consignment note.

(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 consignment note or the goods, 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 goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

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

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they 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

The consignor and the consignee can respectively enforce all the rights given 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 consignment note.

Article 16

(1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods 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 or documents, unless the damage is due to the fault of the carrier or his 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 luggage or any goods, 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 luggage or goods are 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 to 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, luggage or goods.

Article 20

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

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

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 passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Courts 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 125,000 gold francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery 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 actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned above shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23

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.

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

(1) The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26

(1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have 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 three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods 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 despatched 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 seised 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 seised 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, luggage or goods 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 luggage or goods, 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 goods 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

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to 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.

Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the Archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

(1) This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

(2) As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

(3) It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38

(1) This Convention shall, after it has come into force, remain open for accession by any State.

(2) The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

(3) The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

(1) Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

(2) Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40

(1) Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

(2) Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

(3) Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

(Here follow the signatures on behalf of the following countries:—

Germany, Austria, Belgium, Brazil, Denmark, Spain, France, Great Britain and Northern Ireland, the Commonwealth of Australia, the Union of South Africa, Greece, Italy, Japan, Latvia, Luxembourg, Norway, the Netherlands, Poland, Roumania, Switzerland, Czecho-Slovakia, the Union of Soviet Socialist Republics, and Yugoslavia.)

ADDITIONAL PROTOCOL

(With reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

(This additional Protocol was signed on behalf of the same countries as those above mentioned.)

SECOND SCHEDULE

**PROVISIONS AS TO LIABILITY OF CARRIER IN THE EVENT OF
THE DEATH OF A PASSENGER**

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this paragraph the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grand-child.

Provided that, in deducing any such relationship as aforesaid, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father, or as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding paragraph enforceable, but only one action shall be brought in Ceylon in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in Ceylon or not, being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding paragraph, the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court (or, where the action is tried with a jury, the jury) directs.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside Ceylon in respect of the death of the passenger in question.