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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 8th February, 2012

F. 22 (47)/2010-Legis.—The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on the 6th February, 2012 and is hereby published for general information:—

ACT No. IV OF 2012

An Act to give effect in Pakistan to the Conventions concerning international carriage by air known as the Montreal Convention for the Unification of Certain Rules for International Carriage by Air 1999 and consolidate the law and applicable international conventions in relation to international carriage by air

WHEREAS, it is expedient to give effect in Pakistan to the Convention concerning international carriage by air known as the Montreal Convention for the Unification of Certain Rules for International Carriage by Air, 1999, and to enable the rules contained in that Convention to be applied, subject to exceptions adaptations and modifications, to carriage by air in Pakistan which is not international carriage within the meaning of the Convention, and to provide for matters connected herewith or ancillary thereto;

(7)

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AND WHEREAS it is expedient to consolidate the existing law and applicable international conventions in relation to international carriage by air;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Carriage by Air Act, 2012.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) The applicable provisions of the Carriage by Air Conventions shall have the force of law in Pakistan in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage:

Provided that the provisions of Carriage by Air Conventions shall not apply to international carriage by air performed and operated directly by the Islamic Republic of Pakistan for non-commercial purposes in respect to its functions and duties as a sovereign state and to the carriage of persons, cargo and baggage for the military authorities on aircraft registered in or leased by the Islamic Republic of Pakistan, the whole capacity of which has been reserved by or on behalf of such authorities.

(5) Sub-section (4) is subject to other provisions of this Act.

2. **Definitions.**—In this Act, unless there is anything is repugnant in the subject or context,—

(a) “applicable provisions” means,—

(i) the provisions of Warsaw Convention, 1929, as set out in the First Schedule;

(ii) the provisions of the Warsaw Convention as amended at The Hague, 1955, as set out in the Second Schedule;

(iii) the provisions of the Guadalajara Convention, 1961, as set out in the Third Schedule; and

(iv) the provisions of the Montreal Convention, 1999, as set out in the Fourth Schedule;

so far as they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees and other persons;

(b) "Carriage by Air Conventions" means,—

- (i) the Convention known as the Warsaw Convention, 1929;
- (ii) the Convention known as the Warsaw Convention as amended at The Hague, 1955;
- (iii) the Convention supplementary to that Convention known as the Guadalajara Convention 1961; and
- (iv) the Convention known as the Montreal Convention 1999.

(c) "Schedule" means the Schedule to this Act.

3. Application of the Carriage by air conventions, as amended, to Pakistan.—(1) The rules contained in the First Schedule, being the provisions of the convention for the unification of certain rules relating to international carriage by air relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, known as the Warsaw Convention, 1929, shall, subject to the provisions of this Act, have the force of law in Pakistan in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(2) The rules contained in the Second Schedule, being the provisions of the convention for the unification of certain rules relating to international carriage by air known as the Warsaw Convention as amended at The Hague, 1955, shall, subject to the provisions of this Act, have the force of law in Pakistan in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(3) The rules contained in the third Schedule, being the provisions of the Convention supplementary to the Warsaw Convention, 1929 for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier, known as the Guadalajara Convention, 1961, shall, subject to the provisions of this Act, have the force of law in Pakistan in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage and the rules contained in the Third Schedule shall be supplementary to, and form part of, the rules contained in the First Schedule or, as the case may be, the Second Schedule, and shall have effect accordingly.

(4) The rules contained in the Fourth Schedule, being the provisions of the Convention for the unification of certain rules relating to international carriage by air known as the Montreal Convention for the Unification of Certain Rules for International Carriage by Air, 1999, shall, subject to the provisions of this Act, have the force of law in Pakistan in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(5) Notwithstanding anything contained in the Fatal Accidents Act 1855 (XIII of 1855), or any other law for the time being in force, the rules contained in the First, Second, Third or, as the case may be, Fourth Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger, and the rules contained in the Sixth Schedule shall determine the persons by whom and for whose benefit and the manner in which such liability may be enforced.

(6) Any sums mentioned in rules 21, 22, 23 or 24 of the Fourth Schedule shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

(7) Any sum in francs mentioned in rule 22 of the First Schedule and as the case may be, rule 22 of the Second Schedule, shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

(8) Any reference in the first, Second, Third and Fourth Schedules,—

- (a) to the territory of any High contracting Party or Parties or State Party or Parties to the convention shall be construed as a reference to all the territories in respect of which he is a party; and
- (b) agents of the carrier shall be construed as including a reference to servants of the carrier.

(9) The applicability of the Carriage by Air Conventions to any international carriage by air, as defined by the First, Second or, as the case may be, the Fourth Schedule, shall be dependent on the High Contracting Party or Parties or State Party or Parties, as the case may be being a signatory or signatories to the same Carriage by Air Convention.

(10) If more than one of the Carriage by Air Conventions apply to a carriage by air, the applicable provisions that shall have the force of law shall be those of whichever is the most recent applicable Carriage by Air Convention in force.

4. Provisions regarding suits against High contracting Party or Parties or State Party or Parties who undertake carriage by air.—(1) Every High contracting Party or Parties or State Party or Parties to the Carriage by Air Conventions shall, for the purposes of any suit brought in a court in Pakistan in accordance with,—

- (a) the provisions of rule 28 of the First Schedule where a High contracting Party to the Warsaw Convention, 1929, has not availed himself of the provisions of the Additional Protocol thereto; or
- (b) the provisions of rule 28 of the Second Schedule where a High Contracting Party to the Warsaw Convention as amended at The Hague, 1955, has not availed himself of the provisions of the Additional Protocol thereto; or
- (c) the provisions of rule 33 of the Fourth Schedule,

to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that Court and to be a person for the purposes of the Code of Civil Procedure, 1908 (Act V of 1908).

(2) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(3) Nothing in this section shall authorize any Court to attach or sell any property of a High contracting Party or Parties or State Party or Parties to the Carriage by Air Conventions.

5. Application of Act to carriage by air which is not international.—

(1) The rules contained in the fifth Schedule shall apply to all, carriage by air, not being international carriage by air as defined in the First, Second, or as the case may be, Fourth Schedule.

(2) Notwithstanding anything contained in the Fatal Accidents Act, 1855 (XIII of 1855), or any other law for the time being in force, the rules contained in the Fifth Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger, and the rules contained in the Sixth Schedule shall determine the person by whom and for whose benefit and the manner in which such liability may be enforced.

(3) The Federal Government, shall every three years, if not earlier, review all limits of liability provided for carriage by air, not being international carriage, in rules 21 and 22 of the fifth Schedule, any subsequent notifications thereto or any other law, and shall in the official gazette, accordingly notify the reviewed amounts of all such limits of liability.

6. Issuance of substitution of electronic means for delivering documents of carriage.—(1) Nothing contained in this Act shall prevent the

issuance of an individual or collective document of carriage through electronic means which preserves the information required by the applicable provisions contained, as the case may be, in the First, Second, Fourth and Fifth Schedules as a substitute for the delivery of the document referred to in those applicable provisions and if any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved:

Provided that an electronic document of carriage shall be deemed to be a negotiable instrument as defined in section 13 of the Negotiable Instruments Act, 1881 (XXVI of 1881), and may be dealt with in any manner as a paper document of carriage and the Electronic Transactions Ordinance 2002 (LI of 2002), shall apply to such electronic document of carriage notwithstanding the provisions of clause (a) of section (1) of section 31 thereof.

(2) Notwithstanding anything contained in section 31 of the Electronic Transactions Ordinance 2002 (LI of 2002), any document mentioned in this Act issued through electronic means shall be deemed to be a document for the purposes of the Electronic Transactions Ordinance, 2002 (LI of 2002), and all references to such document in this Act and the applicable provisions contained in the First, Second, Fourth and Fifth Schedules shall include their 'electronic form' and all such documents shall attract all the protections and exemptions provided for in the Electronic Transaction Ordinance 2002 (LI of 2002).

7. **Repeal.**—The Carriage by air Act, 1934 (XX of 1934), the Carriage by Air (International Convention) Act 1966 (X of 1966), and Carriage by Air (Supplementary Convention) Act, 1968 (V of 1968) are hereby repealed.

THE FIRST SCHEDULE

[See Section 3(1)]

THE WARSAW CONVENTION, 1929

UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR RELATING TO THE RIGHTS AND LIABILITIES OF CARRIERS PASSENGERS, CONSIGNORS, CONSIGNEES AND OTHER PERSONS.

RULES

CHAPTER-I

SCOPE-DEFINITIONS

1. (1) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) In these rules "High Contracting Party" means a High Contracting Party to the Convention.

(3) For the purposes of these rules 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 the 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 purposes of these rules.

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has 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.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

PART I. —*Passenger ticket*

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 carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability Contained in this Schedule.

(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 these rules. 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 Schedule which exclude or limit his liability.

PART II- *Luggage ticket*

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 particular:—

- (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 rule 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(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 these rules. 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) of sub-rule (3), the carrier shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

PART III.—Air consignment note

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 rule 9, be none the less governed by these rules.

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 an 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.

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.

8. The air consignment note shall contain the following particular:—

- (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;

