



# Revisions to Athens Convention on carriage of passengers and their luggage by sea

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From 23 April 2014, passengers will enjoy increased rights of compensation for personal injury and loss or damage to their luggage suffered during the course of the carriage at sea.

The origin of these rights can be found in the Athens Convention 1974. This Convention was designed to consolidate and harmonise two earlier Brussels conventions dealing with passengers and luggage and was adopted at a conference in Athens 1974. Since the adoption of the Athens Convention there have been a number of protocols that attempted to amend the Convention and the most recent one, the Protocol of 2002 to the Athens Convention (the "Protocol") was adopted by the International Maritime Organisation (IMO) on 1 November 2002

The Athens Convention established a regime of liability for damage suffered by passengers carried on a seagoing vessel, providing the incident causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier. However, unless the carrier acted with intent to cause such damage, or recklessly and with knowledge that such damage would probably result, the carrier could limit his liability.

As well as raising the limits of liability for passenger claims, the Protocol introduces a system of strict liability for shipping related incidents, which is backed by the requirement that the carrier takes out compulsory insurance to cover these potential claims. The Protocol sets a maximum limit which empowers, but not obliges, national courts to compensate for death, injury or damage up to these limits. The Protocol also includes an “opt-out” clause that enables States to retain or introduce higher limits of liability.

The main provisions of the Protocol have been incorporated into EU law and entered into force on 31 December 2012. The UK has implemented the Protocol by means of the Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012 and when the Protocol enters into force internationally on 23 April 2014, the UK will ratify the Protocol by means of the Merchant Shipping (Convention relating to the Carriage of Passengers and their Luggage by Sea) (Amendment) (Order) 2014.

These Regulations will apply to all international carriage where a ship is registered in the UK, the contract of carriage has been made in the UK or the place of departure or destination is in the UK. They will also apply to domestic voyages within the UK on board Class A ships on or after 30 December 2016 and Class B ships on or after 30 December 2018 (Class B ships being passenger ships engaged on domestic voyages where they are at no point more than 20 miles from the coast and Class A ships being those engaged on domestic voyages operating at a greater distance from the coast).

In summary the new Regulations will have the following effect:

Carriers will be required to maintain insurance (or other financial security, such as a bank guarantee) to cover the limits of strict liability (see below) under the Convention in respect of the death of or personal injury to passengers. The compulsory insurance shall not be less than 250,000 SDR (Special Drawing Rights) per passenger carried. The requirement to have insurance does not apply to ships which are not licensed to carry more than 12 passengers.

Ships are to be issued with a certificate (obtainable from the Secretary of State at a cost of £31.00) which attests that insurance is in place. This certificate must be carried on board the ship and be produced on demand; failure to comply with the requirement for insurance or to produce the certificate on demand constitutes an offence punishable by way of a fine (and the ship may also be detained).

The liability of the carrier for the death of or personal injury to a passenger is limited to 250,000 SDR per passenger. The carrier will be liable unless the carrier can prove that the incident resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon.

If the claim exceeds this limit the carrier may be liable up to a further limit of 400,000 SDR per passenger,

unless the carrier can prove that the loss occurred without the fault or neglect of the carrier.

Where death or personal injury to a passenger is not caused by a shipping incident the carrier will only be only liable if the claimant can prove that the loss was due to the fault or neglect of the carrier and that it occurred in the course of carriage. A Shipping incident is defined as the shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship or a defect in the ship.

The limit in respect of loss of or damage to cabin luggage is 2,250 SDR, for loss or damage to vehicles (including all luggage carried in or on a vehicle) is 12,700 SDR and for loss or damage to other luggage is 3,375 SDR.

All passengers must be supplied with information concerning their rights and failure to do so is an offence punishable by way of a fine.