This Explanatory Memorandum is laid before Parliament by Command of Her Majesty

1. i) Title of the Instrument: The Air Carrier Liability Regulations 2004 (SI 2004/1418).

ii) Laying Authority and Purpose: This instrument is made under powers conferred in section 2 (2) of the European Communities Act 1972 and laid pursuant to the provisions of paragraph 2(2) of Schedule 2 to that Act. It is subject to annulment in pursuance of a resolution of either House.

iii) Department responsible: The Department for Transport

2. Description

The purpose of this instrument is to update a reference to Community legislation in two other instruments.

3. Matters of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments

None

4. Legislative Background

General: The Air Carrier Liability Order 1998 (SI 1998/1751) was made in order to give effect to Council Regulation 2027/97 on air carrier liability in the event of accidents. Amongst other things that Order created sanctions for non-compliance with certain requirements in the Regulation relating to the provision of information in conditions of carriage and to passengers in tickets or similar documents. That Council Regulation has been amended by Parliament and Council Regulation 889/2002. This instrument replaces the 1998 Order in order to give effect to Council Regulation 2027/97 as amended. It applies the same sanctions to the amended provisions of the Council Regulation relating to making information available.

The reference to Council Regulation 2027/97 in section 14 of the Carriage by Air Act 1961 is updated to include a reference to amending Regulation 889/2002.

EU legislation: Amending Regulation 889/2002 is directly applicable and is therefore not the subject of transposition. It was cleared by the Lords Select Committee on the European Communities on 18 July 2000 (1041st sift) and by the House of Commons European Scrutiny Committee on 19 July 2000 (Report No.25 - Session 99/2000).

5. Extent

This instrument applies to the United Kingdom as a whole.

6. European Convention on Human Rights

In my view the provisions of this instrument are compatible with Convention Rights.

7. Policy background

Amongst other things Regulation 889/2002 provides for the giving of information relating to -

a) the tariff used to fix the supplementary sum that may be charged for increasing a Community air carrier's liability for loss of or damage to baggage in respect of which a special declaration is made,

b) the provision of a summary of the main provisions governing liability for passengers and their baggage,

c) the applicable carrier liability limits for death or injury, for loss of or damage to baggage and for delay.

As amendments these provisions are largely of a technical nature and formal consultation of this instrument was not considered necessary.

The instrument gives effect to the UK's obligation to ensure that appropriate sanctions are in place to secure the effective working and enforcement of these provisions.

8. Impact

No Regulatory Impact Assessment has been prepared. There is no direct financial impact since the instrument merely updates the reference to Community legislation in two other pieces of legislation.

9. Contact

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24th May 2004