

**CONTRACTS
OF CARRIAGE
BY AIR**

SECOND EDITION

MALCOLM A. CLARKE

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BY

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Preface

This edition of the book comes at a time of significant change—change in the practices and viability of the airline industry and in the law that governs carriage of both passengers and goods by air. The Warsaw Convention of 1929, as amended subsequently, has been replaced in many countries by the Montreal Convention 1999. The Montreal Convention came into force in the UK in June 2004—well after the publication of the first edition of this book in 2002. This edition of the book focuses principally on the Montreal Convention. However, as litigation governed by (versions of) the Warsaw Convention is still coming through, the book also deals with the last version of that Convention in force in the UK.¹ Moreover, Chapter 2 grapples with the impact of EC Directives.

The main changes to be undertaken were easier to identify than to execute. In central parts of that task I have been greatly assisted as regards content by George Leloudas of Gates & Partners and as regards production by the publisher's staff, notably Chris Betney. To them I am duly grateful.

*Malcolm Clarke
St John's College, Cambridge
October 2010*

1. Further, it is likely that certain provisions of the Montreal Convention (MC) will be influenced by opinion on the Warsaw Convention (WSC). Where MC provisions are substantially the same as those in WSC, courts in the US have “routinely relied” on previous decisions on WSC: *Tompkins* 34 Air & Space L 420, 422 (2009).

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AWB	air waybill
BGH	Bundesgerichtshof
CIM	Uniform Rules concerning the Contract for International Carriage and Passengers by Rail, Berne 1980; given effect in the United Kingdom by s.1(1) of the International Transport Conventions Act 1983
CMR	Convention for the International Carriage of Goods by Road, signed at Geneva on 19 May 1956; enacted in the United Kingdom by the Carriage of Goods by Road Act 1965
HP	The Hague Protocol of 1955 which amended the Warsaw Convention of 1929
HR	Hague Rules, as enacted in the Carriage of Goods by Sea Act 1924
HVR	Hague-Visby Rules, as enacted in the Carriage of Goods by Sea Act 1972
MC	The Montreal Convention 1999
VCLT	Vienna Convention on the Law of Treaties 1969
WSC	The Warsaw Convention 1929, as amended by the Hague Protocol of 1955 and by the Montreal Protocol of 1975

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Clarke and Yates	<i>Contracts of Carriage by Land and Air</i> (with D. Yates) (2nd edn, London 2008)
De Juglart	M. De Juglart, <i>Droit Aérien</i> (2nd edn, Paris 1989)
Fountain	Fountain Court Chambers, <i>Carriage by Air</i> (London 2001)
Giemulla	E. Giemulla, R. Schmid, P. Ehlers, and W. Müller-Rostin, <i>Warsaw Convention</i> (The Hague 1998)
Koller	I. Koller, <i>Transportrecht</i> (6th edn, Munich 2007) (Note that the 7th edn has just been published)
Kronke	H. Kronke, <i>Münchener Kommentar</i> (MüKo-HGB), Bd 7, (Munich 1997)
Miller	G. Miller, <i>Liability in International Air Transport</i> (Paris 1997)
Scrutton	T. E. Scrutton, <i>Scrutton on Charterparties and Bills of Lading</i> (20th edn, London 1996)
Sériaux	A. Sériaux, <i>La Faute du Transporteur</i> (Paris 1984)
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