

EC Regulation No 1107/2006

Concerning the rights of disabled persons and persons with reduced mobility when travelling by air

1 Introduction

- 1.1 The Regulation on Disabled Persons and Persons of Reduced Mobility (PRMs Regulation) was published by the European Commission on 5 July 2006 and comes into force in two stages. Articles 3 and 4 come into force on 26 July 2007, with the remainder of the Regulation coming into force on 26 July 2008.
- 1.2 The UK Regulations that deal with enforcement of the European Regulations are due to come in to force on 26 July 2007. They set out the offences and penalties of non-compliance and also designate the CAA as the enforcement body. Passenger complaints in England, Wales and Scotland will be handled by the Disability Rights Commission (DRC) and in Northern Ireland by the Consumer Council for Northern Ireland. Complaints by the industry will be handled by the CAA, contact details are in paragraph 9 of this document.
- 1.3 This note has been written for the industry and aims to identify the actions required by the Council Regulation. It is not intended to be exhaustive and we have not attempted to interpret the Regulation. You should read the Council Regulation and may wish to seek independent legal advice on your procedures to ensure they comply with the Regulation.
- 1.4 This note is not designed for passengers and they should refer to the websites of the Disability Rights Commission or the Consumer Council For Northern Ireland for further information.

2 Purpose and Scope

- 2.1 The purpose of the Regulation is to facilitate access to air transport for disabled persons and persons of reduced mobility and to ensure they receive assistance, when travelling by air.
- 2.2 The provisions of the Regulation apply to disabled persons using or intending to use commercial passenger air services. It also covers persons of reduced mobility, including people who would not normally be classed as disabled, such as older people or those with a temporary mobility problem. The Regulation covers flights from, on transit through, or on arrival at an airport situated in the European Union. Articles 3 and 4 also apply to passengers departing from an airport situated in a third country to an airport situated in the European Union, if the air carrier is a Community air carrier.

3 Requirements which come into force on 26 July 2007

Article 3

- 3.1 This Article applies to air carriers and their agents and tour operators. It states that they may not refuse to accept a reservation from a passenger or to refuse them boarding an aircraft on the grounds of disability or reduced mobility. This applies to flights arriving or departing from an airport in the European Economic Area.

Article 4

- 3.2 Article 4 allows an air carrier, its agent or a tour operator to refuse a booking or boarding on safety grounds. Refusals can only be made:
- In order to meet applicable safety requirements established by international, Community or national law, or by the aviation authority that issued the operating certificate to the air carrier.
 - If the size of the aircraft doors make it impossible to board the passenger.

4 Safety Rules

- 4.1 After July 2008, all UK aeroplane operators engaged in commercial air transportation (except those based in the Channel Islands) will be obliged to comply with the requirements of EU-OPS 1, which are essentially similar to those of JAR-OPS 1. Helicopter operators will continue to be regulated under JAR-OPS 3 until EASA Implementing Rules take effect.
- 4.2 If an operator has to refuse to embark a PRM in order to comply with either the current JAR-OPS 1/3 or future EU-OPS 1 requirements, the operator will be entitled to do so under Article 4(1)(a) of Regulation (EC) No 1107/2006, because the refusal will be in order to meet applicable safety requirements established by law or by the Authority that issued the AOC.
- 4.3 In the past, the CAA Safety Regulation Group (SRG) would not have challenged a limitation in an operator's Operations Manual (or other publication) on the maximum number of PRMs which an operator is prepared to carry on a flight, unless it appeared that the limit was too high; i.e., that the operator was proposing to carry more PRMs than was permitted by the requirements of JAR-OPS 1 or 3. If the limit was obviously less than the maximum number which might be permitted by JAR-OPS 1 or 3, SRG would not have challenged it because it would not have raised any safety issue.
- 4.4 An operator must now be prepared to carry as many PRMs as it is able to do so in accordance with JAR-OPS 1 or 3. The effect of Regulation (EC) No 107/2006 is in essence to make the *maximum* number of PRMs which may be carried in accordance with JAR-OPS 1 or 3 into the *minimum* number of PRMs which an operator must be prepared to carry.
- 4.5 An operator will not be allowed to set for itself a maximum number of PRMs that it will carry where that number is less than the maximum permitted by JAR-OPS 1 or 3.

- 4.6 The maximum number permitted by JAR-OPS 1 or 3 on any particular flight will depend on a number of variables. These variables include the type and configuration of the aircraft, the extent of the reduced mobility or disability of the PRMs seeking embarkation and the number of Able-Bodied Persons (ABPs).
- 4.7 It is not possible for the CAA to determine for every aircraft type and configuration the maximum number of PRMs that may be carried on any particular flight. For the reasons explained above, if an operator submits a maximum number in a document to the CAA, it does not follow that simply because the CAA does not challenge that number on safety grounds, that the operator can use the number to justify a refusal to embark a PRM.
- 4.8 Generally, the maximum number of PRMs who may be carried in accordance with JAR-OPS 1 or 3 is likely to be much greater than the number of PRMs typically seeking to be carried on any particular flight. For larger aircraft, it would only be in very unusual circumstances that an operator will be in a position to refuse to carry a PRM because the JAR-OPS 1 or 3 limit has been reached. Smaller aircraft may have a lower limit due to the size of the entrance door, integral steps and location and size of other emergency exits.
- 4.9 It is the operator's responsibility to comply both with JAR-OPS 1 or 3 (or EU-OPS 1 when it applies), and with Regulation (EC) No 1107/2006. The key message for operators is that if they are considering refusing boarding on the basis of Article 4(1)(a) of the Regulation, they can only do so if otherwise they would exceed the legal maximum established by JAR-OPS 1 or 3 for that flight. It is the operator's responsibility to establish what that maximum may be.

5 Passenger Rights on Refusal

- 5.1 If a reservation is refused on safety grounds the air carrier, its agent or the tour operator should make reasonable efforts to propose an acceptable alternative to the passenger.
- 5.2 Where a passenger has been denied boarding on the grounds of disability or reduced mobility, they should be offered the right of reimbursement or re-routing as provided for in Article 8 of the Regulation on Denied Boarding Compensation¹. The right to the option of a return flight or re-routing shall be conditional upon all safety requirements being met.
- 5.3 In order to meet safety requirements, an air carrier, its agent or a tour operator may require a passenger to be accompanied by another person who can provide the required assistance.
- 5.4 Safety rules applied to the carriage of disabled passengers and passengers with reduced mobility should be made available in accessible formats and at least in the same languages used for other passengers. This should also include details of any restrictions on carriage of passengers, or mobility equipment due to the size of the aircraft. Tour operators should make this information available for flights included in package holidays.
- 5.5 If an air carrier, its agent or a tour operator uses the safety derogation it should immediately inform the passenger of the reasons why it has done so. If a passenger

¹ Council Regulation 261/2004 on Denied Boarding, Cancellation and Long Delay

requires a written response this should be provided within five working days of it being requested.

6 Requirements which come into force on 26 July 2008

6.1 The remainder of the Regulation comes into force on 26 July 2008. It is aimed at ensuring disabled and reduced mobility passengers have access to air travel, and it includes the following:

- Airports to provide assistance to departing disabled and reduced mobility passengers from the point of arrival at the airport to their seats on the aircraft.
- Airports to provide assistance to arriving disabled and reduced mobility passengers from their seats on the aircraft to their departure from the airport.
- Airports to designate points of arrival and departure at the airport, at which disabled and reduced mobility passengers can announce their arrival at the airport and request assistance.
- Airports to publish service quality standards (when they handle more than 150,000 commercial passengers per annum). Quality standards should be set in co-operation with airlines and organisations representing disabled and reduced mobility passengers.
- Disabled and reduced mobility passengers should not be charged for assistance. (Airports may charge airlines based on the total number of passengers carried to and from the airport).
- Charges should be reasonable, cost-related, transparent and established in co-operation with airlines.
- Airports may agree with airlines to provide assistance of a higher standard than the published standards. Any charge for such assistance must be transparent, cost-related and established after consultation with the airline.
- Airports should separate the accounts of their activities relating to assistance given to disabled and reduced mobility passengers from the accounts of its other activities.
- Airports should make available to airlines an audited annual overview of costs and revenues for assistance provided to disabled and reduced mobility passengers.
- Airports may choose to provide the services themselves or contract out to another body, including an airline.
- Customers should be able to easily notify their need for assistance and this information should be transmitted to airlines and airports to ensure a smooth journey.
- Staff providing direct assistance to disabled and reduced mobility passengers should have a knowledge of how to meet the needs of persons with various

disabilities or mobility impairments. All staff dealing with the travelling public must receive disability-awareness and disability equality training.

7 Access to Air Travel for Disabled People – Code of Practice

- 7.1 The DfT is revising its Code of Practice on Access to Air Travel for Disabled People to ensure it includes the requirement of the PRMs Regulation. This work has already started and the Code will include guidance on the legal requirements as well as agreed industry best practice.
- 7.2 The DfT will be consulting the industry on the draft Code, and it is hoped that this will be available prior to the introduction of the second stage of the Regulation. In the interim, the Current Code of Practice provides useful guidance.

8 Complaints Handling

- 8.1 The Disability Rights Commission will additionally handle complaints from the public about airports situated in England, Wales and Scotland and airlines that have been issued an operating licence by the UK Civil Aviation Authority. It will also handle complaints about non-EU airlines departing from, arriving at or on transit through UK airports (excluding Northern Ireland).
- 8.2 The Council for Consumer Complaints in Northern Ireland will handle complaints from the public about airports situated in Northern Ireland and UK airlines departing or arriving at Northern Ireland airports. It will also deal with complaints about non-EU airlines departing from, arriving at or on transit through Northern Ireland airports.
- 8.3 Passengers who experience problems at an airport in another Member State or with an airline licensed by another Member State will be able to complain to either of the above bodies. However, the Regulation requires that they should be forwarded to the correct body in the relevant Member State.
- 8.4 The DRC is able to provide advice to the industry on the Regulation and will generally signpost them to the relevant Code of Practice.
- 8.5 The CAA will handle complaints from the industry. Contact details are overleaf.

9 Contact Details

9.1 If you have any questions please contact:

Safety

Cabin Safety Office
Safety Regulation Group

Tel 01293 573955
Fax 01293 573991

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Airlines

Airline Licensing & Consumer Issues
Consumer Protection Group

Tel: 020 7453 6333
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Tour Operators and Travel Agents

Consumer Protection Group

Tel: 020 7453 6424
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Airports

Economic Regulation Group

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