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STATUTORY INSTRUMENTS

2007 No. 1895

CIVIL AVIATION

DISABLED PERSONS

**The Civil Aviation (Access to Air Travel for Disabled Persons
and Persons with Reduced Mobility) Regulations 2007**

Made - - - - *3rd July 2007*

Laid before Parliament *3rd July 2007*

Coming into force in accordance with regulation 1

The Secretary of State for Transport is a Minister designated for the purpose of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to air transport(b).

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred upon her by that section.

Citation and commencement

1.—(1) These Regulations may be cited as the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007.

(2) This regulation, regulations 2, 7 and 8 and (so far as they relate to Articles 3 and 4) regulations 3 to 6 and 9 come into force on 26th July 2007.

(3) Regulation 10 comes into force on 1st October 2007.

(4) Regulations 3 to 6 and 9 (so far as they are not already in force) come into force on 26th July 2008.

Interpretation

2.—(1) In these Regulations—

“the EC Regulation” means Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air(c);

“air carrier”, “airport”, “managing body of an airport”, “operating air carrier” and “tour operator” have the same meaning as in the EC Regulation.

(a) 1972 c.68.

(b) S.I. 1993/2661.

(c) OJ No. L 204, 26.7.2006, p.1.

(2) A reference to an Article is a reference to that Article in the EC Regulation.

Offences

3.—(1) An air carrier, an agent of an air carrier or a tour operator who contravenes an obligation imposed by—

- (a) Article 3,
- (b) Article 4,
- (c) Article 6(1), (2) or (3), or
- (d) Article 13,

is guilty of an offence.

(2) An air carrier who contravenes an obligation imposed by Article 10 or 11 is guilty of an offence.

(3) An operating air carrier who contravenes an obligation imposed by Article 6(4) is guilty of an offence.

(4) If the managing body of an airport contravenes an obligation imposed by—

- (a) Article 5,
- (b) Article 7(1), (2), (3), (5) or (6),
- (c) Article 8(1), (2), (5) or (6),
- (d) Article 9(1) or (3),
- (e) Article 11, or
- (f) Article 13,

it is guilty of an offence.

Penalties

4. A person guilty of an offence under regulation 3 is liable—

- (a) in relation to any failure to comply with an obligation imposed by Article 8(2), on summary conviction, to a fine not exceeding level 3 on the standard scale;
- (b) in relation to any failure to comply with an obligation imposed by—
 - (i) Article 4(3),
 - (ii) Article 5(2),
 - (iii) Article 6,
 - (iv) Article 7(1), (2), (3), (5) or (6),
 - (v) Article 8(6),
 - (vi) Article 9(1) or (3),
 - (vii) Article 10, or
 - (viii) Article 11,

on summary conviction, to a fine not exceeding level 5 on the standard scale;

- (c) in relation to any failure to comply with an obligation imposed by—
 - (i) Article 3,
 - (ii) Article 4(1) or (4),
 - (iii) Article 5(1),
 - (iv) Article 8(1) or (5), or
 - (v) Article 13,

on summary conviction, to a fine not exceeding the statutory maximum, or on conviction on indictment, to an unlimited fine.

Defence

5.—(1) Subject to paragraph (2), in proceedings against any person for an offence under regulation 3, it is a defence for that person to show that he took all reasonable steps to avoid committing the offence.

(2) A person is not entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied to him, unless he shows that it was reasonable in all the circumstances to have relied on that information.

Offences by corporate or unincorporated bodies

6.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) a person who was purporting to act in any such capacity,

he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a limited partnership or a Scottish partnership is proved—

- (a) to have been committed with the consent or connivance of, or
- (b) to be attributable to any neglect on the part of,

a partner, he as well as the partnership is guilty of that offence and is liable to be proceeded against and punished accordingly.

(4) In relation to any proceedings on indictment in Scotland for an offence alleged to have been committed under these Regulations by an unincorporated body, section 70 of the Criminal Procedure (Scotland) Act 1995^(a) (proceedings on indictment against bodies corporate) applies as if it were a body corporate.

Enforcement and complaints

7.—(1) The Civil Aviation Authority is the designated body for the purposes of Article 14 and it and any person authorised to act on its behalf are to have access at all reasonable times to any part of an airport or aircraft for the purposes of carrying out the Authority's functions under that Article.

(2) The General Consumer Council for Northern Ireland is the designated body for the purposes of Article 15(2) in respect of a complaint made under the EC Regulation relating to—

- (a) an airport in Northern Ireland, or
- (b) a flight departing from an airport in Northern Ireland.

(3) In respect of a complaint to which paragraph (2) does not apply, the designated body for the purposes of Article 15(2) is—

- (a) in relation to the period beginning on 26th July 2007 and ending on 30th September 2007, the Disability Rights Commission;

(a) 1995 c.46.

- (b) in relation to any time after 30th September 2007, the Commission for Equality and Human Rights.

Amendment of section 19 of the Disability Discrimination Act 1995

8. In section 19 of the Disability Discrimination Act 1995(a) (discrimination in relation to goods, facilities and services), after subsection (4) insert—

“(4A) Subsection (1) does not apply to anything that is governed by Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.”.

Compensation claims by disabled persons etc.

9.—(1) A claim by a disabled person or a person with reduced mobility for an infringement of any of his rights under the EC Regulation may be made the subject of civil proceedings in the same way as any other claim in tort or (in Scotland) in reparation for breach of statutory duty.

(2) For the avoidance of doubt, any damages awarded in respect of any infringement of the EC Regulation may include compensation for injury to feelings whether or not they include compensation under any other head.

(3) Proceedings in England, Wales or Northern Ireland may be brought only in a county court.

(4) Proceedings in Scotland may be brought only in a sheriff court.

(5) The remedies available in such proceedings are those which are available in the High Court or (as the case may be) the Court of Session.

(6) A county court or a sheriff court is not to consider a claim under this regulation unless proceedings in respect of it are instituted before the end of the period of six months beginning when the infringement complained of occurred.

(7) Where, in relation to proceedings or prospective proceedings under this regulation, the dispute concerned is referred to conciliation before the end of the period of six months mentioned in paragraph (6), the period allowed by that paragraph is to be extended by three months.

(8) A court may consider any claim under this regulation which is out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.

Amendment of section 27 of the Equality Act 2006

10. In section 27 of the Equality Act 2006(b) (conciliation), after subsection (1) insert—

“(1A) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be brought in England and Wales or Scotland under regulation 9 of the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007 (civil proceedings).”.

Signed by authority of the Secretary of State

3rd July 2007

Jim Fitzpatrick
Parliamentary Under Secretary of State
Department for Transport

(a) 1995 c.50, to which there are amendments not relevant to these Regulations.
(b) 2006 c.3.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of the rights and entitlements set out in Council Regulation (EC) No. 1107/2006 (OJ No. L 204, 26.7.2006) (“the EC Regulation”), which concerns the rights of disabled persons and persons with reduced mobility when travelling by air.

With the exception of *regulation 10* which comes into force on 1 October 2007, the Regulations come into force in two stages to reflect the fact that the EC Regulation has effect from 26th July 2008, except for Articles 3 and 4, which apply from 26th July 2007. Insofar as the Regulations relate to purposes connected with Articles 3 and 4 or deal with designation of enforcement and complaints bodies, they come into force on 26th July 2007.

Regulation 3 provides offences for failure to comply with various obligations set out in the EC Regulation. These obligations fall, respectively, upon air carriers and their agents, tour operators, operating air carriers and managing bodies of airports and the penalties provided by *regulation 4* vary from fines not exceeding level 3 or level 5 on the standard scale on summary conviction, to an unlimited fine on conviction on indictment.

It will be a defence for a person to demonstrate that he took all reasonable steps to ensure compliance with the EC Regulation (*regulation 5*).

Regulation 6 provides that members and officers of corporate bodies who have contributed to a failure to comply with the EC Regulation shall also be liable to prosecution.

The Regulations designate the Civil Aviation Authority as the body responsible for the enforcement of the EC Regulation and give the CAA rights of access to airports and aircraft in connection with that function. Initially the Disability Rights Commission is designated in Great Britain as the body to receive complaints regarding any alleged breaches of the EC Regulation until the replacement of that body by the Commission for Equality and Human Rights when it comes into being on 1st October 2007. Separate provision is made in respect of the body to receive complaints in Northern Ireland (*regulation 7*).

Regulation 8 amends section 19 of the Disability Discrimination Act 1995 which makes it unlawful for a provider of services to discriminate against a disabled person in relation to goods, facilities and services. This regulation inserts a provision to disapply section 19(1) in relation to anything governed by the EC Regulation. This is to ensure that there is no duplication where there would otherwise be an overlap between the EC Regulation and the Act.

Regulation 9 enables persons who have suffered an infringement of their rights under the EC Regulation to seek compensation separately from any penal sanction that may be imposed. A claim for compensation must be brought within six months of the infringement complained of.

Regulation 10 amends section 27 of the Equality Act 2006 to enable the Commission for Equality and Human Rights to offer a conciliation service in relation to a claim made under regulation 9.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been produced and a copy placed in the library of both Houses of Parliament. Copies may be obtained from the Department for Transport, 76 Marsham Street, London SW1P 4DR. Alternatively copies can be obtained from the Department for Transport’s website which is at www.dft.gov.uk. The regulatory impact assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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