

# Consumer

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## Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005/975

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2005 No. 975

CIVIL AVIATION

# The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005

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<i>Made</i>	<i>29th March 2005</i>
<i>Laid before Parliament</i>	<i>1st April 2005</i>
<i>Coming into force</i>	<i>23rd April 2005</i>

The Secretary of State for Transport, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to air transport<sup>1</sup>, in exercise of the powers conferred by that section hereby makes the following Regulations:

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## Notes

<sup>1</sup> S.I. 1993/2661.

## Extent

Preamble: United Kingdom

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 Law In Force

## 1. Citation and commencement

These Regulations may be cited as the Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005 and shall come into force on 23rd April 2005.

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## Commencement

reg. 1: April 23, 2005

## Extent

reg. 1: United Kingdom

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✓ Law In Force

## 2. Interpretation

In these Regulations—

a reference to an Article is a reference to that Article in Council Regulation (EC) No. 261/2004 of 11th February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights<sup>1</sup>; and

“operating air carrier” means an air transport undertaking with a valid operating licence that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with the passenger.

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### Notes

<sup>1</sup> OJ No. L46 of 17th February 2004, p.1. By virtue of Article 18 of the Council Regulation, Council Regulation (EEC) No. 295/91 of 4th February 1991 establishing common rules for a denied boarding compensation system in scheduled air transport, is repealed OJ L36, 8.2.1991, p.5.

### Commencement

reg. 2 definition of "operating air carrier": April 23, 2005

### Extent

reg. 2 definition of "operating air carrier": United Kingdom

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✓ Law In Force

## 3.— Offences

[(1) An operating air carrier is guilty of an offence if, in the United Kingdom or elsewhere, it fails to comply with an obligation imposed on it by Article 4, 5, 6, 10, 11 or 14 [ . ]<sup>2</sup>

(a)-(b) [...] <sup>2</sup>

] <sup>1</sup>

(2) A person guilty of an offence under this regulation shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale.

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### Notes

<sup>1</sup> Substituted by Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019/278 Pt 3 reg.5(2) (March 9, 2019)

<sup>2</sup> Words revoked by Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019/278 Pt 3 reg.5(3) (December 31, 2020: shall come into force on exit day as specified in 2018 c.16 s.20(1))

### Commencement

reg. 3(1)-(2): April 23, 2005

### Extent

reg. 3(1)-(2): United Kingdom

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✓ Law In Force

#### 4.— Due diligence defence

(1) Subject to the following provisions of this regulation, in proceedings against any operating air carrier for an offence under regulation 3 of these Regulations, it shall be a defence for that operating air carrier to show that it took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) An operating air carrier shall not be entitled to rely on the defence provided by paragraph (1) by reason of its reliance on information supplied by another, unless it shows that it was reasonable in all the circumstances for it to have relied on the information, having regard in particular—

- (a) to the steps which it took, and those that might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether it had any reason to disbelieve the information.

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#### Commencement

reg. 4(1)-(2)(b): April 23, 2005

#### Extent

reg. 4(1)-(2)(b): United Kingdom

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✓ Law In Force

#### 5.— Enforcement

(1) The Civil Aviation Authority shall be the designated body for the purposes of Article 16(1).

[ (2) The Civil Aviation Authority and, subject to paragraph (4), the bodies listed in paragraph (3) shall be designated bodies for the purposes of Article 16(2).

(3) The bodies referred to in paragraph (2) are—

- (a) CEDR Services Limited (company registration number 03271988);
- (b) Consumer Dispute Resolution Limited (company registration number 09189773).

(4) The designation by paragraph (2) of a body listed in paragraph (3) only applies in so far as any contract entered into by that body with an operating air carrier provides for that body to deal with complaints made in accordance with Article 16(2) in relation to that carrier. ]<sup>1</sup>

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#### Notes

<sup>1</sup> Reg.5(2)-(4) substituted for reg.5(2) by Civil Aviation (Denied Boarding, Compensation and Assistance and Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) (Amendment) Regulations 2016/729 reg.2(2) (August 4, 2016)

#### Commencement

reg. 5(1)-(2): April 23, 2005

#### Extent

reg. 5(1)-(4): United Kingdom

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✓ Law In Force

## [ 6.— Review

- (1) The Secretary of State must from time to time—
  - (a) carry out a review of these Regulations,
  - (b) set out the conclusions of the review in a report, and
  - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the rights and entitlements set out in Council Regulation (EC) No 261/2004<sup>2</sup> are enforced in other member States.
- (3) The report must in particular—
  - (a) set out the objectives intended to be achieved by these Regulations,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate and if so, the extent to which they could be achieved in another way which involves less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this regulation comes into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

] <sup>1</sup>

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### Notes

<sup>1</sup> Added by Civil Aviation (Denied Boarding, Compensation and Assistance and Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) (Amendment) Regulations 2016/729 reg.2(3) (August 4, 2016)

<sup>2</sup> OJ No L 46, 17.2.04, p.1.

### Extent

reg. 6(1)-(5): United Kingdom

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✓ Law In Force

*Signed by the authority of the Secretary of State*

*Charlotte Atkins*  
Parliamentary Under Secretary of State Department for Transport

29th March 2005

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the creation of offences for the purposes of enforcing the rights and entitlements set out in Council Regulation (EC) No. 261/2004 which establishes common rules on compensation and assistance to passengers in the event that they are denied boarding onto their flight or that the flight has been cancelled or subjected to lengthy delays.

Regulation 3 provides that anyone failing to offer compensation and or provide assistance in the circumstances provided for by the Council Regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

It will be a defence for an operating air carrier to demonstrate that it took all reasonable steps and was as careful as possible to ensure compliance with the Council Regulation (regulation 4).

The Regulations also designate the Civil Aviation Authority as the body responsible for the enforcement of the Council Regulation and the Air Transport Users Council as the body to receive complaints regarding any alleged breaches of the Council Regulation (regulation 5).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business 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](http://www.dft.gov.uk).

**Modifications**

<b>Provision</b>	<b>Modification</b>	<b>Notes</b>	<b>Further Information</b>
<b>Whole Document</b>	European Union (Withdrawal) Act 2018 c. 16, s. 2	Despite the repeal of 1972 c.68 by 2018 c.16 s.1, EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law during the implementation period under 2018 c.16 s.1B and on and after IP completion day under 2018 c.16 s.2	

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