
STATUTORY INSTRUMENTS

2023 No. 1370

The Aviation (Consumers) (Amendment) Regulations 2023

Amendment of Regulation (EC) No 261/2004

2.—(1) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 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 and repealing Regulation (EEC) No 295/91(1) is amended as follows.

(2) In Article 2 (definitions), after paragraph (m) insert—

“(n) “arrival time” means the time passengers are permitted to exit the aircraft upon reaching the final destination;

(o) “extraordinary circumstances” means circumstances which cause delay or cancellation and—

(a) that—

(i) by their nature or origin are not inherent in the normal exercise of the activity of the air carrier,

(ii) are beyond the actual control of the air carrier, and

(iii) the air carrier has taken all reasonable measures in relation to but was unable to avoid; or

(b) arose from the impact of an air traffic management decision and could not have been avoided even if all reasonable measures had been taken;

(p) “scheduled arrival time” is the time of arrival at the final destination which is fixed in the flight schedule and indicated on the reservation or other evidence held by the passenger;

(q) “The Montreal Convention” is the Convention for the unification of certain rules for international carriage by air and its annexes, signed in Montreal on 28th May 1999, as amended.”.

(3) In Article 3 (scope), after paragraph (1) insert—

“(1A) For the purposes of this Regulation a flight comprised of more than one leg shall be treated—

(a) as a whole, if it was booked as a single unit, and

(b) as departing from the point of departure of the first leg.”.

(4) In Article 3 (scope), after paragraph (6) insert—

“(7) An obligation to pay compensation or offer assistance in accordance with Articles 7 to 9 does not constitute a liability for damage occasioned by delay for the purposes of Article 19 of the Montreal Convention.

(8) An action to enforce an obligation to pay compensation or offer assistance in accordance with Articles 7 to 9 does not constitute an action for damages for the purposes of Article 29 of the Montreal Convention.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (9) For limitation purposes a claim under this Regulation will be determined in accordance with section 9 of the Limitation Act 1980(2).”.
- (5) In Article 6 (delay), after paragraph (2) insert—
- “(3) In case of a delay of three hours or more in reaching the final destination, the passengers concerned have the right to compensation laid down in Article 7.
- (4) An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the delay is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.”.
- (6) In Article 7 (right to compensation), in paragraph (1), after “denial of boarding” insert “, delay”.

(2) 1980 c. 58; section 9(2) was amended by the Automated and Electric Vehicles Act 2018 (c. 18), section 21 and Schedule paragraph 8.