

This Statutory Instrument includes corrections to defects in S.I. 2014/2833 and is being issued free of charge to all known recipients of that Statutory Instrument.

S T A T U T O R Y I N S T R U M E N T S

2016 No. 729

CIVIL AVIATION

The Civil Aviation (Denied Boarding, Compensation and Assistance and Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) (Amendment) Regulations 2016

Made - - - - - *11th July 2016*

Laid before Parliament *13th July 2016*

Coming into force - - - *4th August 2016*

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to air transport(b) and discrimination(c) and in exercise of the powers conferred by that section makes these Regulations.

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Denied Boarding, Compensation and Assistance and Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) (Amendment) Regulations 2016 and come into force on 4th August 2016.

Amendment of Regulations

2.—(1) The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005(d) are amended as follows.

(2) In regulation 5 (enforcement), for paragraph (2) substitute—

“(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

(a) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) and paragraph 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c.7).

(b) S.I. 1993/2661.

(c) S.I. 2002/1819.

(d) S.I. 2005/975.

body to deal with complaints made in accordance with Article 16(2) in relation to that carrier.”

(3) After regulation 5 (enforcement), add—

“Review

6.—(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(a) 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.”

3.—(1) The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014(b) are amended as follows.

(2) In regulation 4 (duty to enforce)—

(a) for paragraph (2) substitute—

“(2) Subject to paragraphs (3) and (5), the CAA and the bodies listed in paragraph (4) are designated bodies for the purposes of Article 15(2).”; and

(b) after paragraph (3) add—

“(4) 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).

(5) The designation by paragraph (2) of a body listed in paragraph (4) 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 15(2) in relation to that carrier.”

(3) In regulation 8 (address for service), for sub-paragraph (e) substitute—

“(e) in any case, an electronic address which the enforcement subject has held out as an address at which that person can be contacted and which has not been withdrawn for that purpose.”

(4) In paragraph (10) of regulation 17 (notices: procedure), for sub-paragraph (e) substitute—

“(e) in any case, an electronic address which the person from whom information is being requested has held out as an address at which that person can be contacted and which has not been withdrawn for that purpose.”

(5) After regulation 24 (compensation claims by disabled persons for a damages award), add—

(a) OJ No L 46, 17.2.04, p.1.

(b) S.I. 2014/2833.

“Review

25.—(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 provisions of Regulation (EC) No 1107/2006(a) 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 regulations.

(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.”

Signed by authority of the Secretary of State for Transport

11th July 2016

Robert Goodwill
Minister of State
Department for Transport

(a) OJ No L 204, 26.7.06, p.1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005 (“the 2005 Regulations”) and the Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014 (“the 2014 Regulations”).

Regulation 2 amends the 2005 Regulations by providing for the designation of CEDR Services Limited (company registration number 03271988) and Consumer Dispute Resolution Limited (company registration number 09189773) as bodies to whom a passenger may complain about an alleged infringement of Regulation (EC) No 261/2004 of the European Parliament and of the Council (OJ No L 46, 17.2.04, p1.). This Regulation establishes common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.

In respect of each body, the designation 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) of the Regulation in relation to that carrier.

The reference in regulation 5(2) of the 2005 Regulations to the Air Transport Users Council as being designated for the purposes of Article 16(2) has been replaced by a designation of the Civil Aviation Authority for those purposes.

Regulation 2 also adds a new regulation 6 into the 2005 Regulations which requires the Secretary of State to review the operation and effect of the 2005 Regulations and publish a report within five years after this new regulation comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the 2005 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2005 Regulations or to amend them.

Regulation 3 amends the 2014 Regulations by providing for a similar designation, subject to the same conditions, for the purpose of dealing with complaints made in accordance with Article 15(2) of Regulation (EC) No 1107/2006 of the European Parliament and of the Council (OJ No L 204, 26.7.06, p1.). This Regulation concerns the rights of disabled persons and persons with reduced mobility when travelling by air. The Civil Aviation Authority remains a designated body for the purposes of Article 15(2).

Paragraphs (3) and (4) of regulation 3 makes minor amendments to the 2014 Regulations so that a request for consultation for the purposes of regulation 6 or a notice requiring a person to provide the Civil Aviation Authority with information under regulation 16 may only be sent to an electronic address that has not been withdrawn.

Regulation 3 also adds a new regulation 24 into the 2014 Regulations which requires the Secretary of State to review the operation and effect of the 2014 Regulations and publish a report within five years after this new regulation comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the 2014 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2014 Regulations or to amend them.

An Impact Assessment has not been prepared for this instrument as there is minimal impact on business, charities or the voluntary sector.

An Explanatory Memorandum is published alongside the instrument on legislation.gov.uk.

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