Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 1107/2006 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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 (Text with EEA relevance)

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having consulted of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) The single market for air services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for air travel comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination. This applies to air travel as to other areas of life.

(2) Disabled persons and persons with reduced mobility should therefore be accepted for carriage and not refused transport on the grounds of their disability or lack of mobility, except for reasons which are justified on the grounds of safety and prescribed by law. Before accepting reservations from disabled persons or persons with reduced mobility, air carriers, their agents and tour operators should make all reasonable efforts to verify whether there is a reason which is justified on the grounds of safety and which would prevent such persons being accommodated on the flights concerned.

(3) This Regulation should not affect other rights of passengers established by Community legislation and notably Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours[(3)] and 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 air passengers in the event of denied boarding and of cancellation or long delay of flights[(4)]**.** Where the same event would give rise to

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the same right of reimbursement or rebooking under either of those legislative acts as well as under this Regulation, the person so entitled should be allowed to exercise that right once only, at his or her discretion.

(4) In order to give disabled persons and persons with reduced mobility opportunities for air travel comparable to those of other citizens, assistance to meet their particular needs should be provided at the airport as well as on board aircraft, by employing the necessary staff and equipment. In the interests of social inclusion, the persons concerned should receive this assistance without additional charge.

(5) Assistance given at airports situated in the territory of a Member State to which the Treaty applies should, among other things, enable disabled persons and persons with reduced mobility to proceed from a designated point of arrival at an airport to an aircraft and from the aircraft to a designated point of departure from the airport, including embarking and disembarking. These points should be designated at least at the main entrances to terminal buildings, in areas with check-in counters, in train, light rail, metro and bus stations, at taxi ranks and other drop-off points, and in airport car parks. The assistance should be organised so as to avoid interruption and delay, while ensuring high and equivalent standards throughout the Community and making best use of resources, whatever airport or air carrier is involved.

(6) To achieve these aims, ensuring high quality assistance at airports should be the responsibility of a central body. As managing bodies of airports play a central role in providing services throughout their airports, they should be given this overall responsibility.

(7) Managing bodies of airports may provide the assistance to disabled persons and persons with reduced mobility themselves. Alternatively, in view of the positive role played in the past by certain operators and air carriers, managing bodies may contract with third parties for the supply of this assistance, without prejudice to the application of relevant rules of Community law, including those on public procurement.

(8) Assistance should be financed in such a way as to spread the burden equitably among all passengers using an airport and to avoid disincentives to the carriage of disabled persons and persons with reduced mobility. **[**[X1]A charge levied on each air carrier using an airport, proportionate to the number of passengers it carries to and from the airport, appears to be the most effective way of funding.**]**

(9) With a view to ensuring, in particular, that the charges levied on an air carrier are commensurate with the assistance provided to disabled persons and persons with reduced mobility, and that these charges do not serve to finance activities of the managing body other than those relating to the provision of such assistance, the charges should be adopted and applied in full transparency. Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports[(5)] and in particular the provisions on separation of accounts, should therefore apply where this does not conflict with this Regulation.

(10) In organising the provision of assistance to disabled persons and persons with reduced mobility, and the training of their personnel, airports and air carriers should have regard

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to document 30 of the European Civil Aviation Conference (ECAC), Part I, Section 5 and its associated annexes, in particular the Code of Good Conduct in Ground Handling for Persons with Reduced Mobility as set out in Annex J thereto at the time of adoption of this Regulation.

(11) In deciding on the design of new airports and terminals, and as part of major refurbishments, managing bodies of airports should, where possible, take into account the needs of disabled persons and persons with reduced mobility. Similarly, air carriers should, where possible, take such needs into account when deciding on the design of new and newly refurbished aircraft.

(12) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[(6)] should be strictly enforced in order to guarantee respect for the privacy of disabled persons and persons with reduced mobility, and ensure that the information requested serves merely to fulfil the assistance obligations laid down in this Regulation and is not used against passengers seeking the service in question.

(13) All essential information provided to air passengers should be provided in alternative formats accessible to disabled persons and persons with reduced mobility, and should be in at least the same languages as the information made available to other passengers.

(14) Where wheelchairs or other mobility equipment or assistive devices are lost or damaged during handling at the airport or during transport on board aircraft, the passenger to whom the equipment belongs should be compensated, in accordance with rules of international, Community and national law.

(15) Member States should supervise and ensure compliance with this Regulation and designate an appropriate body to carry out enforcement tasks. This supervision does not affect the rights of disabled persons and persons with reduced mobility to seek legal redress from courts under national law.

(16) It is important that a disabled person or person with reduced mobility who considers that this Regulation has been infringed be able to bring the matter to the attention of the managing body of the airport or to the attention of the air carrier concerned, as the case may be. If the disabled person or person with reduced mobility cannot obtain satisfaction in such way, he or she should be free to make a complaint to the body or bodies designated to that end by the relevant Member State.

(17) Complaints concerning assistance given at an airport should be addressed to the body or bodies designated for the enforcement of this Regulation by the Member State where the airport is situated. Complaints concerning assistance given by an air carrier should be addressed to the body or bodies designated for the enforcement of this Regulation by the Member State which has issued the operating licence to the air carrier.

(18) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. The penalties, which could include ordering the payment of compensation to the person concerned, should be effective, proportionate and dissuasive.

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(19) Since the objectives of this Regulation, namely to ensure high and equivalent levels of protection and assistance throughout the Member States and to ensure that economic agents operate under harmonised conditions in a single market, cannot sufficiently be achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(20) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(21) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation,

HAVE ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to 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 (Official Journal of the European Union L 204 of 26 July 2006).

Article 1

Purpose and scope

1 This Regulation establishes rules for the protection of and provision of assistance to disabled persons and persons with reduced mobility travelling by air, both to protect them against discrimination and to ensure that they receive assistance.

2 The provisions of this Regulation shall apply to disabled persons and persons with reduced mobility, using or intending to use commercial passenger air services on departure from, on transit through, or on arrival at an airport, when the airport is situated in the territory of a Member State to which the Treaty applies.

3 Articles 3, 4 and 10 shall also apply to passengers departing from an airport situated in a third country to an airport situated in the territory of a Member State to which the Treaty applies, if the operating carrier is a Community air carrier.

4 This Regulation shall not affect the rights of passengers established by Directive 90/314/EEC and under Regulation (EC) No 261/2004.

5 In so far as the provisions of this Regulation conflict with those of Directive 96/67/EC, this Regulation shall prevail.

6 Application of this Regulation to Gibraltar airport is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom of

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Great Britain and Northern Ireland with regard to the dispute over sovereignty over the territory in which the airport is situated.

7 Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland on 2 December 1987 enter into operation. The Governments of Spain and of the United Kingdom shall inform the Council of the date of entry into operation.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) ‘disabled person’ or ‘person with reduced mobility’ means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers;

(b) ‘air carrier’ means an air transport undertaking with a valid operating licence;

(c) ‘operating air carrier’ means an air carrier 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 that passenger;

(d) ‘Community air carrier’ means an air carrier with a valid operating licence granted by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers[(7)];

(e) ‘tour operator’ means, with the exception of an air carrier, an organiser or retailer within the meaning of Article 2(2) and (3) of Directive 90/314/EEC;

(f) ‘managing body of the airport’ or ‘managing body’ means a body which notably has as its objective under national legislation the administration and management of airport infrastructures, and the coordination and control of the activities of the various operators present in an airport or airport system;

(g) ‘airport user’ means any natural or legal person responsible for the carriage of passengers by air from or to the airport in question;

(h) ‘Airport Users Committee’ means a committee of representatives of airport users or organisations representing them;

(i) ‘reservation’ means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier or tour operator;

(j) ‘airport’ means any area of land specially adapted for the landing, taking-off and manoeuvres of aircraft, including ancillary installations which these operations may involve for the requirements of aircraft traffic and services including installations needed to assist commercial air services;