L.N. 297 of 2005

CIVIL AVIATION ACT
(CAP. 232)

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

IN exercise of the powers conferred by article 3 of the Civil Aviation Act, the Minister for Competitiveness and Communications hereby has made the following regulations:

Citation.

1. The title of these regulations shall be the Civil Aviation (Denied Boarding Compensation and Assistance to Passengers) Regulations, 2005.

Interpretation.

2. In these regulations, unless the context otherwise requires -

"the Council Regulation" means 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;

"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.

Offences.

3. (1) An operating air carrier who fails to comply with an obligation imposed on it by Article 4 to 6 , 10, 11 or 14 of the Council Regulation shall be guilty of an offence.

(2) An operating air carrier guilty of an offence under this regulation shall be liable on summary conviction, to a fine (*multa*) of not less than Lm250 but not exceeding Lm1000.

Due diligence defence.

4. (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 such offence.

(2) An operating air carrier shall not be entitled to rely on the defence provided by sub-regulation (1) hereof by reason of its reliance on information supplied by another operating air carrier, 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) whether it had any reason to disbelieve the information.

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