L.N. 77 of 2004

CIVIL AVIATION ACT
(CAP. 232)

Civil Aviation (Air Fares) Regulations, 2004

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

Citation and commencement.

1. (1) The title of these regulations is the Civil Aviation (Air Fares) Regulations, 2004.

(2) These regulations shall come into force on such date or dates as the Minister responsible for Transport and Communications may, by notice in the Gazette, appoint.

Interpretation.

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

"Agreement" means an agreement between groups of States to which Malta is a party, reciprocally granting to citizens of such States or their dependants the right to enter, remain and reside in and leave the country of such States, to move freely within such States for such period as may be established in the agreement and to work or establish, provide or receive services therein; and "Agreement State" shall be construed accordingly;

"air fares" means the prices to be paid by passengers to air carriers or their agents for the carriage of them and for the carriage of their baggage on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

"air service" means a flight or series of flights carrying passengers, cargo and, or mail for remuneration and, or hire;

"air transport undertaking" means a person whose business includes the carriage by air of passengers or cargo for hire or reward;

"basic fare" means the lowest fully flexible fare, available on a one way and return basis, which is offered for sale at least to the same extent as that of any other fully flexible fare offered on the same air service;

"cargo rates" means the prices to be paid for the carriage of cargo and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary

services;

"charter fares" means the prices to be paid by passengers to charterers for services which constitute or include their carriage and the carriage of their baggage on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

"Director" means the Director of Civil Aviation and, to the extent of the authority given, any person so authorised in that behalf by the Director;

"seat rates" means the prices to be paid by charterers to air transport undertakings for the carriage on air services of the charterer on its customers and their baggage and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;

"standard cargo rates" means the rates which the air transport undertaking would normally quote including the availability of normal discounts.

Filing and approval of tariffs – Air transport undertakings of Agreement States.

3. (1) Air transport undertakings of Agreement States operating scheduled air services to and from Malta shall set air fares without requiring any approval from the Director.

(2) Air fares set by virtue of subregulation (1) shall not be required to be filed with the Director more than twenty-four hours, including a working day, before the air fares come into effect, except in the case of matching an existent fare for which no more than prior notification is required.

(3) An air fare may be available for sale and carriage as long as it is not withdrawn in accordance with regulation 4.

(4) All air transport undertakings of Agreement States operating in Malta shall inform the general public, on request, of all air fares and standard cargo rates.

Withdrawal of fares or stoppage of further fare decreases.

4. (1) Subject to the provisions of this regulation, the Director may decide, at any moment:

(a) to withdraw a basic fare which, taking into account the whole fare structure for the route in question and other relevant factors including the competitive market situation, is excessively high to the disadvantage of users in relation to the long term fully-allocated relevant costs of the air carrier, including a satisfactory return on capital;

(b) to stop, in a non-discriminatory way, further fare decreases in a market, whether on a route or a group of routes, when market forces have led to sustained downward development of air fares deviating significantly from ordinary seasonal pricing movements and resulting in widespread losses among all air carriers concerned for the air services concerned, taking into account the long term fully allocated relevant costs of the air transport undertakings.

(2) A decision taken pursuant to subregulation (1) shall be notified with reasons to the relevant authorities of the other Agreement States involved as well as to the air transport undertakings concerned.

(3) If within fourteen days of the date of receiving notification no relevant authority of any Agreement State concerned has notified disagreement stating its reasons, the Director may instruct the air transport undertaking concerned to withdraw the basic fare or to abstain from further fare decreases, as appropriate.

(4) In the case of disagreement, the Director may consult the relevant authority of the Agreement State involved to review the situation.

Charter fares and seat and cargo rates.

5. Charter fares and seat and cargo rates charged by air transport undertakings of Agreement States shall be set by free agreement between the parties to the contract of carriage.

Filing and approval of tariffs – air transport undertakings of non-Agreement States. Cap. 232.

6. (1) Where a permission granted under article 9 of the Civil Aviation Act to an air transport undertaking of a non-Agreement State contains a tariff provision, the operator or charterer of the aircraft concerned shall file with the Director the tariff which it proposes to apply on flights to which the said permission relates and the Director shall consider the proposed tariff and may, if he thinks fit, approve or disapprove it.

(2) For the purposes of this regulation, "tariff provision" means a condition as to any of the following matters:

(a) the price to be charged for the carriage of passengers, baggage or cargo on flights to which a permission granted under article 9 of the Civil Aviation Act relates; Cap. 232.

(b) any additional goods, services or other benefits to be provided in connection with such carriage;

(c) the prices, if any, to be charged for any such additional goods, services or benefits; and

(d) the commission, or rates of commission, to be paid in relation to the carriage of passengers, baggage or cargo;

and includes any condition as to the applicability of any such price, the provision of any such goods, services or benefits or the payment of any such commission or of commission at any such rate.