

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 17,082, 10 ta' April, 2001

Taqsimha B

L.N. 78 of 2001

**CIVIL AVIATION ACT
(CAP. 232)**

**Civil Aviation (Denied Boarding Compensation)
Regulations, 2001**

IN exercise of the powers conferred by article 3 of the Civil Aviation Act, the Minister for Transport and Communications hereby makes the following regulations:—

1. The title of these regulations is the Civil Aviation (Denied Boarding Compensation) Regulations, 2001, and shall come into force on the 1st November, 2001. Citation and commencement.

2. In these regulations, unless the context otherwise requires: Interpretation.

“air carrier” means any air transport undertaking with a valid operating licence and which operates scheduled flights within Malta and from Malta to any other country;

“air transport undertaking” means an undertaking whose business includes the carriage by air of passengers or passengers and cargo and, or mail for remuneration;

“confirmed reservation” means that a ticket sold by the air carrier or its authorised travel agent contains:

- a specification of the number, date and time of the flight, and

- the notation “OK”, or any other entry, in the appropriate space on the ticket signifying the registration by the air carrier as well as the express confirmation by the air carrier of the reservation;

“denied boarding” means a refusal to accommodate passengers on a flight although they have:

- a valid ticket,
- a confirmed reservation on that flight, and
- presented themselves for check-in within the required time limit and as stipulated;

“the Director” means the Director of Civil Aviation.

“final destination” means the destination on the flight coupon presented at the check-in counter or, in the case of successive flights, on the last flight coupon of the ticket. Connecting flights which can be carried out without difficulties although a delay has been caused by denied boarding are not taken into account;

“operating licence” means an authorisation issued by the State responsible to an air transport undertaking, permitting it to carry out carriage by air of passengers or passengers and cargo and, or mail as stated in the operating licence, for remuneration;

“overbooked flight” means a flight where the number of passengers holding a confirmed reservation and presenting themselves for check-in within the required time limit and as stipulated exceeds the number of available seats on that flight;

“scheduled flight” means a flight possessing all of the following characteristics:

- it is performed by aircraft for the transport of passengers or passengers and cargo and, or mail for remuneration, in such a manner that, for each flight, seats are available for purchase by members of the public, either directly from the carrier or from its authorised agents,

- it is operated to serve traffic between two or more points, either:

- (i) according to a published timetable; or

- (ii) with flights so regular or frequent that they constitute a recognisably systematic series;

“volunteer” means a person who has:

- a valid ticket,

- a confirmed reservation, and

- presented himself for check-in within the required time limit and as stipulated and who responds positively to the air carrier’s call for passengers being prepared to surrender their confirmed reservation in exchange for compensation.

3. (1) An air carrier shall not operate any scheduled service unless it has laid down the rules which it will follow for boarding in the event of an overbooked flight. It shall notify these rules and any changes therein to the Director. Any such changes shall enter into force one month after their notification.

Rules for
overbooked flights.

(2) The rules referred to in subregulation (1) shall be made available to the public at the carrier's agencies and check-in counters.

(3) The rules referred to in subregulation (1) should include the possibility of a call for volunteers prepared not to board.

(4) In any event the air carrier should take into consideration the interests of passengers who must be given priority for legitimate reasons, such as handicapped persons and unaccompanied children.

4. (1) In the event of boarding being denied, a passenger shall have the choice between:

Minimum
compensation for
denied boarding.

- reimbursement without penalty of the cost of the ticket for the part of the journey not made, or

- re-routing to his final destination at the earliest opportunity, or

- re-routing at a later date at the passenger's convenience.

(2) Irrespective of the passenger's choice mentioned in the case referred to in subregulation (1), the air carrier shall, immediately after boarding has been denied, pay minimum compensation, without prejudice to subregulations (3) and (4), amounting to:-

- Lm65 for flights of up to 3,500 km,

- Lm130 for flights of more than 3,500 km having regard to the final destination specified in the ticket.

(3) Where the air carrier offers re-routing to the final destination on an alternative flight, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked by two hours for flights of up to 3,500 km and by four hours for flights of more than 3,500 km, the compensation provided for in subregulation (2) above may be reduced by 50 per cent.

(4) The amounts of compensation need not exceed the price of the ticket in respect of the final destination.

(5) The compensation shall be paid in cash or, in agreement with the passenger, in travel vouchers and, or other services.

(6) If, on an overbooked flight, a passenger agrees to be placed in a class lower than that for which a ticket has been purchased, he shall be entitled to reimbursement of the difference in price.

(7) The distances given in subregulations (2) and (3) shall be measured by the great circle track method (great circle route).

Tour operator's obligations.

5. (1) In the event of boarding being denied on a flight sold as part of a package tour, the air carrier shall be obliged to compensate the tour operator who has concluded a contract with the passenger and who is liable to him for the proper performance of the contract for the said package tour.

(2) The tour operator shall be obliged to pass on to the passenger the sums collected under subregulation (1).

Other compensations for denied boarding.

6. Apart from the minimum compensation amounts set out in regulation 4, the air carrier shall offer free of charge to passengers who are denied boarding:

(a) the expenses for a telephone call and, or a telex or fax message to the point of destination;

(b) meals and refreshments in a reasonable relation to the waiting time;

(c) hotel accommodation in cases where an additional stay of one or more nights is necessary.

Passengers travelling free or at reduced rates.

7. The air carrier shall not be obliged to pay denied-boarding compensation in cases where the passenger is travelling free of charge or at reduced fares not available directly or indirectly to the public.

Form with denied boarding compensations rules.

8. Air carriers shall provide each passenger affected by denied boarding with a form setting out the denied-boarding compensation rules.

Savings.

9. (1) These regulations shall apply without prejudice to any subsequent application to the courts having jurisdiction with a view to further compensation.

(2) Subregulation (1) hereof shall not apply to the volunteers who have accepted compensation under the rules referred to in regulation 3.