



STATUTORY INSTRUMENTS

**S.I. No. 299 of 2008**

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EUROPEAN COMMUNITIES (RIGHTS OF DISABLED PERSONS AND  
PERSONS WITH REDUCED MOBILITY WHEN TRAVELLING BY  
AIR) REGULATIONS 2008

**(Prn. A8/1111)**

EUROPEAN COMMUNITIES (RIGHTS OF DISABLED PERSONS AND  
PERSONS WITH REDUCED MOBILITY WHEN TRAVELLING BY  
AIR) REGULATIONS 2008

I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving full effect to Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006<sup>1</sup>, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Rights of Disabled Persons and Persons with Reduced Mobility when Travelling by Air) Regulations 2008.

2. (1) In these Regulations—

“Act” means Aviation Regulation Act 2001 (No. 1 of 2001);

“Article” means Article of the Regulation;

“air carrier”, “disabled person”, “person with reduced mobility”, “managing body of an airport” and “tour operator” have the meanings assigned to them, respectively, by Article 2 of the Regulation;

“Commission” means Commission for Aviation Regulation;

“Regulation” means Regulation No. 1107/2006 of the European Parliament and of the Council of 5 July 2006.

(2) A word or expression which is used in these Regulations and is also used in the Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Regulation.

3. The Commission is designated as the body responsible for the enforcement of the Regulation (including the implementation of Article 8) as regards flights departing from or arriving at airports situated in the State. This is a function of the Commission under the Act.

4. (1) The Commission may issue general directions to air carriers, their agents, tour operators or the managing bodies of airports in relation to compliance with the Regulation.

(2) A direction under this Regulation should be notified to the persons concerned in such manner as the Commission decides including by the issue of a

<sup>1</sup>OJ L 204, 26.7.2006, p. 1

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 1st August, 2008.*

general notice to the persons concerned or publication on the website of the Commission.

(3) Persons to which a direction under this Regulation has been issued shall ensure compliance with the direction.

5. Subject to Article 4, an air carrier or its agent or a tour operator who contravenes Article 3 or 6(2) commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

6. (1) The Commission either on its own initiative or following a complaint to it by a disabled person or person with reduced mobility, being of the opinion that an air carrier or its agent or a tour operator or managing body of an airport is failing to comply with or is infringing the Regulation, may issue a direction to the carrier, agent, operator or body to comply with the Article concerned of the Regulation or cease the infringement and to comply with any requirements of the direction.

(2) The person to whom a direction has been given may, within 14 days of its issue, make representations to the Commission, which the Commission shall consider. The Commission shall where it has received any such representations, reply in writing to the person within 2 months of receipt of them. The Commission in its reply may confirm, vary or withdraw the direction. Where the direction is confirmed (with or without variation) it takes effect on the date the reply is given.

(3) Where a direction has been given to a person who—

- (a) has not made representations to the Commission within the period of 14 days of the issue of the direction, after such period, or
- (b) has made such representations and the Commission has replied to the carrier confirming the direction with or without variation, after the reply is given,

fails, without reasonable excuse, to comply with the direction, the person commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or
- (ii) on conviction on indictment, to a fine not exceeding €150,000.

(4) Where a direction or reply is required to be given to a person, the direction or reply shall be addressed to the person and shall be given to the person in one of the following ways—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person carries on business,

- (c) by sending it by post in a pre-paid registered letter addressed to the person at the address at which the person carries on business,
- (d) if an address for the service of a direction or reply has been furnished by the person, by leaving it at, or sending it by pre-paid registered post addressed to the person to, that address,
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the person carries on business or, if an address for the service of a direction or reply has been furnished by the person, that address, but only if—
  - (i) the sender’s—
    - (I) facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
    - (II) facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or reply,
  - and
  - (ii) the direction or reply is also given in one of the other ways mentioned in any of the preceding paragraphs.

(5) For the purposes of paragraph (4) a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.

(6) A copy of a direction or reply, which has endorsed on it a certificate purporting to be signed by a commissioner, the deputy commissioner or an officer of the Commission (authorised in that behalf by the Commission) stating that the copy is a true copy of the direction or reply may, without proof of signature of that person, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the direction or reply.

(7) In this Regulation—

“direction” means a direction under paragraph (1);

“reply” means a reply by the Commission under paragraph (2).

7. Section 42 of the Act applies to air carriers, their agents, tour operators and managing bodies of airports. An authorised person under section 42 of the Act is authorised to ensure compliance with the Regulation and exercise all or any of the powers conferred on an authorised person under section 42 of the Act.

8. Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Commission.



GIVEN under my Official Seal,  
25 July 2008

NOEL DEMPSEY.  
Minister for Transport.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

The purpose of these Regulations is to designate the Commission for Aviation Regulation as the enforcement body for Regulation 1107/2006 and to provide for sanctions for infringement of the Regulation.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
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