

# **S.I. No. 274/2005 — European Communities (Compensation and Assistance To Air Passengers) (Denied Boarding, Cancellation Or Long Delay of Flights) Regulations 2005**

## **STATUTORY INSTRUMENT**

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#### **European Communities (Compensation and Assistance to Air Passengers) (Denied Boarding, Cancellation or Long Delay of Flights) Regulations 2005**

I, Martin Cullen, 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. 261/2004 of the European Parliament and of the Council of 11 February 2004<sup>1</sup> , hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Compensation and Assistance to Air Passengers) (Denied Boarding, Cancellation or Long Delay of Flights) Regulations 2005.

2. (1) In these Regulations -

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

“appropriate court” means -

(a) where the amount, of compensation due, or in respect of assistance to be given to, a passenger does not exceed the jurisdiction, to hear and determine a case in contract, of -

(i) the District Court, that court, or

(ii) the Circuit Court, that court,

and

(b) in any case, the High Court;

“direction” means a direction under Regulation 4;

“Parliament and Council Regulation” means 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 passengers in the event of denied boarding and of cancellation or long delay of flights<sup>2</sup> ;

“Regulator” means Commission for Aviation Regulation.

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

(3) In these Regulations, unless otherwise indicated, a reference to a Regulation is a reference to a Regulation of these Regulations.

3. The Regulator is designated for the purposes of Article 16 of the Parliament and Council Regulation for its enforcement from airports situated in the State and flights from a third country to such airports.

4. Where the Regulator considers either on its own initiative or following a complaint by a passenger that an operating air carrier is infringing the Parliament and Council Regulation, it may issue to the carrier a direction to cease the infringement and to comply with any instructions contained in the direction. The carrier may, within one month of issue of the direction, make representations to the Regulator. The Regulator shall consider any such representations and reply to the carrier. The Regulator in its reply may, if it sees fit, vary the direction or withdraw it.

5. Where an operating air carrier to whom a direction has been issued does not comply, or has failed to comply, with the direction, the Regulator may, not earlier than one month after considering any representations and having replied to them, apply to the appropriate court for an order directing such compliance. The court may make such order as it sees fit.

6. An application for an order under Regulation 5 may include an application for an order to pay the Regulator such amount, being an amount, not greater than the court has jurisdiction to award in contract, by way of financial penalty, as the Regulator may propose as appropriate in the light of non-compliance. The court is not bound by the amount proposed, but it shall consider the circumstances of non-compliance and its effect on passengers.

7. Any financial penalty ordered by the appropriate court to be paid by an operating air carrier under Regulation 6 shall be paid to and retained by the Regulator as income.

8. An authorised officer (within the meaning of section 42 of the Act of 2001) is an authorised officer for the purposes of enforcing a direction or the Parliament and Council Regulation and may exercise any of the powers conferred on an authorised officer under Part 4 of the Act of 2001 for the purposes of enforcing a direction or that Regulation. A reference in Part 4 of the Act of 2001 to this Act includes a reference to these Regulations and the Parliament and Council Regulation. Section 42 of the Act of 2001 also

applies to an operating air carrier.

GIVEN UNDER MY SEAL



31 May 2005.

MARTIN CULLEN

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 give effect to the provisions of the Parliament and Council Regulation (EC) No.261/2004 of 11th February 2004<sup>1</sup> establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and to designate the Commission for Aviation Regulation for the purposes of Article 16 of the Parliament and Council Regulation for its enforcement from airports situated in the State and flights from a third country to such airports.

<sup>1</sup> OJ No. L46, 17.2.2004, p.1

<sup>2</sup> OJ No. L46, 17.2.2004, p.1

<sup>1</sup> OJ No. L 46, 17.2.2004

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