

EC Regulation No 2111/2005

Establishing a Community List of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

1 Introduction

1.1 The Regulation on Operating Bans and Carrier Identity entered into law on 16 January 2006 and comes into force in two stages:

Requirements which came into force on 16 January 2006

- The establishment of a Community list of air carriers which are subject to an operating ban throughout the EU¹
- Publication of the Community list to passengers

Requirements which come into force on 16 July 2006

- Informing passengers of the air carrier they are travelling on
- Informing passengers of any changes to their air carrier
- Passenger's rights to reimbursement or re-routing if their air carrier is placed on the Community List

1.2 This note sets out the obligations the Regulation places on air carriage contractors (defined as including air carriers, tour operators and ticket sellers) and airports.

2 Community List

Establishing the List

2.1 To establish the list Member States were required to compile a list of air carriers subject to an operating ban in their territory. Member States then had to provide their lists to the Commission to enable it to compile the Community list.

2.2 Articles 3-8 of the Regulation set out the process for establishing and updating the Community List. The List will be updated to reflect subsequent operating bans imposed on air carriers, to remove carriers from the list or to modify the conditions of an operating ban. At least every 3 months the Commission will verify whether it is appropriate to update the List. The Commission published its first list on 22 March 2006.

Publication of the list

2.3 The List is published by the Commission on its website and is available on the attached link http://europa.eu.int/comm/transport/air/safety/flywell_en.htm . Article 9

¹ The Regulation is currently applicable in the EU, but will be extended to the European Economic Area in the future

of the Regulation requires the list to be brought to the attention of passengers, both via websites and, where relevant, in the premises of:

- Air carriers
- Tour operators
- Ticket sellers
- Airports

2.4 The List will also be published by the European Aviation Safety Agency and national civil aviation authorities. The UK CAA publishes the List on its website at <http://www.caa.co.uk/bannedairlines>.

3 Information to Passengers

Scope

3.1 Article 10 sets out the scope of the Regulation:

- “1. The provisions of this Chapter shall apply in respect of the carriage of passengers by air, where the flight is part of a contract of carriage and that carriage started in the Community, and
- (a) the flight departs from an airport on territory of a Member State to which the Treaty applies;
 - or**
 - (b) the flight departs from an airport in a third country and arrives at an airport on territory of a Member State to which the Treaty applies;
 - or**
 - (c) the flight departs from an airport in a third country and arrives at another such airport.
2. The provisions of this Chapter shall apply whether the flight is scheduled or non-scheduled and whether the flight is part of a package or not”.

Information on the Identity of the Carrier

3.2 Article 11 sets out the obligations placed on air carriage contractors to inform passengers of the identity of the operating air carrier.

When the reservation is made

3.3 When a reservation is made the air carriage contractor shall inform the passenger of the identity of the operating air carrier(s), whatever the means used to make the reservation.

3.4 If the identity of the air carrier(s) is not known at the time of reservation, the air carriage contractor shall ensure that the passenger is informed of the name(s) of the air carrier(s) that is/are likely to act as operating air carrier(s) on the flight(s) concerned. The air carriage contractor shall ensure that the passenger is informed of the identity of the operating air carrier(s) as soon as their identity is established.

3.5 The air carrier or tour operator shall ensure that the relevant air carriage contractor is informed of the identity of the air carrier(s) as soon as this is known. This requirement shall be specified in the general terms of sale applicable to the contract of carriage.

4 Informing passengers of any changes to their air carrier

- 4.1 If the air carrier(s) is changed after reservation the air carriage contractor shall immediately take all appropriate steps to ensure that the passenger is informed of the change as soon as possible. In all cases, passengers shall be informed at check-in or on boarding when no check-in is required for a connecting flight.
- 4.2 The air carrier or tour operator shall ensure that the relevant air carriage contractor is informed of the change to the identity of the air carrier(s) as soon as this is known.

Obligation of Ticket Seller

- 4.3 If a ticket seller has not been informed of the change to the identity of the air carrier, it will not be held responsible for failing to comply with Article 11.

5 Reimbursement or re-routing

- 5.1 Article 12 provides passengers with a right to reimbursement or re-routing if their air carrier is placed on the Community list and flights are cancelled because it is subject to an operating ban. It also provides similar rights to passengers travelling on flights operating outside the EU; where they are flying between two third country airports and the flights form part of a contract where carriage started in the Community. These passengers will be entitled to reimbursement or re-routing in cases where the flight was not cancelled, but the passenger chose not to take it.

6 UK Implementing Regulations

- 6.1 The Department for Transport will be consulting on UK implementing Regulations (dealing with enforcement of the obligations contained in the EU Regulation) later this year.

Consumer Protection Group
April 2006