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Regulation (EU) No 1177/2010 of the European Parliament and of the Council

of 24 November 2010

concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91(1) and 100(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Action by the Union in the field of maritime and inland waterway transport should aim, among other things, at ensuring a high level of protection for passengers that is comparable with other modes of transport. Moreover, full account should be taken of the requirements of consumer protection in general.

(2) Since the maritime and inland waterway passenger is the weaker party to the transport contract, all passengers should be granted a minimum level of protection. Nothing should prevent carriers from offering contract conditions more favourable for the passenger than the conditions laid down in this Regulation. At the same time, the aim of this Regulation is not to interfere in commercial business-to-business relationships concerning the transport of goods. In particular, agreements between a road haulier and a carrier should not be construed as transport contracts for the purposes of this Regulation and should therefore not give the road haulier or its employees the right to compensation under this Regulation in the case of delays.

(3) The protection of passengers should cover not only passenger services between ports situated in the territory of the Member States, but also passenger services between such ports and ports situated outside the territory of the Member States, taking into account the risk of distortion of competition on the passenger transport market. Therefore the term ‘Union carrier’ should, for the purposes of this Regulation, be interpreted as broadly as possible, but without affecting other legal acts of the Union, such as Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport and Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).

(4) The internal market for maritime and inland waterway passenger services should benefit citizens in general. Consequently, disabled persons and persons with reduced mobility, whether caused by disability, age or any other factor, should have opportunities for using passenger services and cruises that are comparable to those of other citizens. Disabled persons and persons with reduced mobility have the same rights as all other citizens with regard to free movement, freedom of choice and non-discrimination.

(5) Member States should promote the use of public transport and the use of integrated tickets in order to optimise the use and interoperability of the various transport modes and operators.

(6) In the light of Article 9 of the United Nations Convention on the Rights of Persons with Disabilities and in order to give disabled persons and persons with reduced mobility opportunities for maritime and inland waterway travel comparable to those of other citizens, rules for non-discrimination and assistance during their journey should be established. Those persons should therefore be accepted for carriage and not refused transport, except for reasons which are justified on the grounds of safety and established by the competent authorities. They should enjoy the right to assistance in ports and on board passenger ships. In the interests of social inclusion, the persons concerned should receive this assistance free of charge. Carriers should establish access conditions, preferably using the European standardisation system.

(7) In deciding on the design of new ports and terminals, and as part of major refurbishments, the bodies responsible for those facilities should take into account the needs of disabled persons and persons with reduced mobility, in particular with regard to accessibility, paying particular consideration to ‘design for all’ requirements. Carriers should take such needs into account when deciding on the design of new and newly refurbished passenger ships in accordance with Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships.

(8) Assistance given at ports situated in the territory of a Member State should, among other things, enable disabled persons and persons with reduced mobility to proceed from a designated point of arrival at a port to a passenger ship and from a passenger ship to a designated point of departure at a port, including embarking and disembarking.

(9) In organising assistance to disabled persons and persons with reduced mobility, and the training of their personnel, carriers should cooperate with organisations representative of disabled persons or persons with reduced mobility. In that work they should also take into account the relevant provisions of the International Convention and Code on Standards of Training, Certification and Watchkeeping for Seafarers as well as the Recommendation of the International Maritime Organisation (IMO) on the design and operation of passenger ships to respond to elderly and disabled persons' needs.

(10) The provisions governing the embarkation of disabled persons or persons with reduced mobility should be without prejudice to the general provisions applicable to the embarkation of passengers laid down by the international, Union or national rules in force.

(11) Legal acts of the Union on passenger rights should take into account the needs of passengers, in particular those of disabled persons and persons with reduced mobility, to use different transport modes and to transfer smoothly between different modes, subject to the applicable safety regulations for the operation of ships.

(12) Passengers should be adequately informed in the event of cancellation or delay of any passenger service or cruise. That information should help passengers to make the necessary arrangements and, if needed, to obtain information about alternative connections.

(13) Inconvenience experienced by passengers due to the cancellation or long delay of their journey should be reduced. To this end, passengers should be adequately looked after and should be able to cancel their journey and have their tickets reimbursed or to obtain re-routing under satisfactory conditions. Adequate accommodation for passengers may not necessarily consist of hotel rooms but also of any other suitable accommodation that is available, depending in particular on the circumstances relating to each specific situation, the passengers' vehicles and the characteristics of the ship. In this respect and in duly justified cases of extraordinary and urgent circumstances, carriers should be able to take full advantage of the available relevant facilities, in cooperation with civil authorities.

(14) Carriers should provide for the payment of compensation for passengers in the event of the cancellation or delay of a passenger service based on a percentage of the ticket price, except when the cancellation or delay occurs due to weather conditions endangering the safe operation of the ship or to extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.

(15) Carriers should, in accordance with generally accepted principles, bear the burden of proving that the cancellation or delay was caused by such weather conditions or extraordinary circumstances.

(16) Weather conditions endangering the safe operation of the ship should include, but not be limited to, strong winds, heavy seas, strong currents, difficult ice conditions and extremely high or low water levels, hurricanes, tornados and floods.

(17) Extraordinary circumstances should include, but not be limited to, natural disasters such as fires and earthquakes, terrorist attacks, wars and military or civil armed conflicts, uprisings, military or illegal confiscations, labour conflicts, landing any sick, injured or dead person, search and rescue operations at sea or on inland waterways, measures necessary to protect the environment, decisions taken by traffic management bodies or port authorities, or decisions by the competent authorities with regard to public order and safety as well as to cover urgent transport needs.

(18) With the involvement of stakeholders, professional associations and associations of customers, passengers, disabled persons and persons with reduced mobility, carriers should cooperate in order to adopt arrangements at national or European level for improving care and assistance offered to passengers whenever their travel is interrupted, notably in the event of long delays or cancellation of travel. National enforcement bodies should be informed of those arrangements.

(19) The Court of Justice of the European Union has already ruled that problems leading to cancellations or delays can be covered by the concept of extraordinary circumstances only to the extent that they stem from events which are not inherent in the normal exercise of the activity of the carrier concerned and are beyond its actual control. It should be noted that weather conditions endangering the safe operation of the ship are indeed beyond the actual control of the carrier.

(20) This Regulation should not affect the rights of passengers established by Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. This Regulation should not apply in cases where a package tour is cancelled for reasons other than cancellation of the passenger service or the cruise.

(21) Passengers should be fully informed of their rights under this Regulation in formats which are accessible to everybody, so that they can effectively exercise those rights. Rights of passengers should include the receipt of information regarding the passenger service or cruise before and during the

journey. All essential information provided to passengers should also be provided in formats accessible to disabled persons and persons with reduced mobility, with such accessible formats allowing passengers to access the same information using, for example, text, Braille, audio, video and/or electronic formats.

(22) Passengers should be able to exercise their rights by means of appropriate and accessible complaint procedures implemented by carriers and terminal operators within their respective areas of competence or, as the case may be, by the submission of complaints to the body or bodies designated to that end by the Member State concerned. Carriers and terminal operators should respond to complaints by passengers within a set period of time, bearing in mind that the non-reaction to a complaint could be held against them.

(23) Taking into account the procedures established by a Member State for the submission of complaints, a complaint concerning assistance in a port or on board a ship should preferably be addressed to the body or bodies designated for the enforcement of this Regulation in the Member State where the port of embarkation is situated and, for passenger services from a third country, where the port of disembarkation is situated.

(24) Member States should ensure compliance with this Regulation and designate a competent body or bodies to carry out supervision and enforcement tasks. This does not affect the rights of passengers to seek legal redress from courts under national law.

(25) The body or bodies designated for the enforcement of this Regulation should be independent of commercial interests. Each Member State should appoint at least one body which, when applicable, should have the power and capability to investigate individual complaints and to facilitate dispute settlement. Passengers should be entitled to receive a substantiated reply from the designated body, within a reasonable period of time. Given the importance of reliable statistics for the enforcement of this Regulation, in particular to ensure coherent application throughout the Union, the reports prepared by those bodies should if possible include statistics on complaints and their outcome.

(26) Member States should lay down penalties applicable to infringements of this Regulation and ensure that those penalties are applied. Those penalties should be effective, proportionate and dissuasive.

(27) Since the objectives of this Regulation, namely to ensure a high level of protection of and assistance to passengers throughout the Member States and to ensure that economic agents operate under harmonised conditions in the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(28) The enforcement of this Regulation should be based on Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation). That Regulation should therefore be amended accordingly.

(29) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data should be strictly respected and enforced in order to guarantee respect for the privacy of natural and legal persons, and to ensure that the information and reports requested serve solely to fulfil the obligations laid down in this Regulation and are not used to the detriment of such persons.

(30) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 of the Treaty on European Union,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes rules for sea and inland waterway transport as regards the following:

(a) non-discrimination between passengers with regard to transport conditions offered by carriers;
(b) non-discrimination and assistance for disabled persons and persons with reduced mobility;
(c) the rights of passengers in cases of cancellation or delay;
(d) minimum information to be provided to passengers;
(e) the handling of complaints;
(f) general rules on enforcement.

Article 2

Scope

1. This Regulation shall apply in respect of passengers travelling:

(a) on passenger services where the port of embarkation is situated in Gibraltar;
(b) on passenger services where the port of embarkation is situated outside Gibraltar and the port of disembarkation is situated in Gibraltar, provided that the service is operated by a Gibraltar carrier as defined in Article 3(e);
(c) on a cruise where the port of embarkation is situated in Gibraltar. However, Articles 16(2), 18, 19 and 20(1) and (4) shall not apply to those passengers.

2. This Regulation shall not apply in respect of passengers travelling:

(a) on ships certified to carry up to 12 passengers;
(b) on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way;
(c) on excursion and sightseeing tours other than cruises; or
(d) on ships not propelled by mechanical means as well as original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials, certified to carry up to 36 passengers.

3. *Deleted*

4. *Deleted*

5. Without prejudice to Nothing, nothing in this Regulation shall be understood as constituting technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace ships, infrastructure, ports or port terminals.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘disabled person’ or ‘person with reduced mobility’ means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his particular needs of the service made available to all passengers;

(b) *Deleted*

(c) ‘access conditions’ means relevant standards, guidelines and information on the accessibility of port terminals and ships including their facilities for disabled persons or persons with reduced mobility;

(d) ‘carrier’ means a natural or legal person, other than a tour operator, travel agent or ticket vendor, offering transport by passenger services or cruises to the general public;

(e) ‘Gibraltar carrier’ means a carrier established in Gibraltar or offering transport by passenger services operated to or from Gibraltar;

(f) ‘passenger service’ means a commercial passenger transport service by sea or inland waterways operated according to a published timetable;

(g) ‘integrated services’ means interconnected transport services within a determined geographical area with a single information service, ticketing scheme and timetable;

(h) ‘performing carrier’ means a person, other than the carrier, who actually performs the carriage wholly or partially;

(i) ‘inland waterway’ means a natural or artificial navigable inland body of water, or system of interconnected bodies of water, used for transport, such as lakes, rivers or canals or any combination of these;

(j) ‘port’ means a place or a geographical area made up of such improvement works and facilities as to permit the reception of ships from which passengers regularly embark or disembark;

(k) ‘port terminal’ means a terminal, staffed by a carrier or a terminal operator, in a port with facilities, such as check-in, ticket counters or lounges, and staff for the embarkation or disembarkation of passengers travelling on passenger services or on a cruise;

(l) ‘ship’ means a vessel used for navigation at sea or on inland waterways;

(m) ‘transport contract’ means a contract of carriage between a carrier and a passenger for the provision of one or more passenger services or cruises;

(n) ‘ticket’ means a valid document or other evidence of a transport contract;

(o) ‘ticket vendor’ means any retailer concluding transport contracts on behalf of a carrier;

(p) ‘travel agent’ means any retailer acting on behalf of a passenger or a tour operator for the conclusion of transport contracts;

(q) ‘tour operator’ means an organiser or retailer, other than a carrier;

(r) ‘reservation’ means a booking of a specific departure of a passenger service or a cruise;

(s) ‘terminal operator’ means a private or public body in Gibraltar responsible for the administration and management of a port terminal;

(t) ‘cruise’ means a transport service by sea or inland waterway, operated exclusively for the purpose of pleasure or recreation, supplemented by accommodation and other facilities, exceeding two overnight stays on board;

(u) ‘shipping incident’ means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship.

Article 4

Tickets and non-discriminatory contract conditions

1. Carriers shall issue a ticket to the passenger, unless under any enactment or rule of law other documents give entitlement to transport. A ticket may be issued in an electronic format.

2. Without prejudice to social tariffs, the contract conditions and tariffs applied by carriers or ticket vendors shall be offered to the general public without any direct or indirect discrimination based on the nationality of the final customer.

Article 5

Other performing parties

1. Where the performance of the obligations under this Regulation has been entrusted to a performing carrier, ticket vendor or any other person, the carrier, travel agent, tour operator or terminal operator who has entrusted such obligations shall nevertheless be liable for the acts and omissions of that performing party, acting within that party's scope of employment.

2. In addition to paragraph 1, the party to whom the performance of an obligation has been entrusted by the carrier, travel agent, tour operator or terminal operator shall be subject to the provisions of this Regulation, including provisions on liabilities and defences, with regard to the obligation entrusted.

Article 6

Exclusion of waiver

Rights and obligations pursuant to this Regulation shall not be waived or limited, in particular by a derogation or restrictive clause in the transport contract.

CHAPTER II

RIGHTS OF DISABLED PERSONS AND PERSONS WITH REDUCED MOBILITY

Article 7

Right to transport

1. Carriers, travel agents and tour operators shall not refuse to accept a reservation, to issue or otherwise provide a ticket or to embark persons on the grounds of disability or of reduced mobility as such.

2. Reservations and tickets shall be offered to disabled persons and persons with reduced mobility at no additional cost under the same conditions that apply to all other passengers.

Article 8

Exceptions and special conditions

1. By way of derogation from Article 7(1), carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to or to embark a disabled person or person with reduced mobility:

(a) in order to meet applicable safety requirements established by international, law, or any enactment or rule of law, or in order to meet safety requirements established by the competent authorities;

(b) where the design of the passenger ship or port infrastructure and equipment, including port terminals, makes it impossible to carry out the embarkation, disembarkation or carriage of the said person in a safe or operationally feasible manner.

2. In the event of a refusal to accept a reservation or to issue or otherwise provide a ticket on the grounds referred to in paragraph 1, carriers, travel agents and tour operators shall make all reasonable efforts to propose to the person concerned an acceptable alternative transport on a passenger service or a cruise operated by the carrier.

3. Where a disabled person or a person with reduced mobility, who holds a reservation or has a ticket and has complied with the requirements referred to in Article 11(2), is nonetheless denied embarkation on the basis of this Regulation, that person, and any accompanying person referred to in paragraph 4 of this Article, shall be offered the choice between the right to reimbursement and re-routing as provided for in Annex I. The right to the option of a return journey or re-routing shall be conditional upon all safety requirements being met.

4. Where strictly necessary and under the same conditions set out in paragraph 1, carriers, travel agents and tour operators may require that a disabled person or person with reduced mobility be accompanied by another person who is capable of providing the assistance required by the disabled person or person with reduced mobility. As regards passenger services, such an accompanying person shall be carried free of charge.

5. When carriers, travel agents and tour operators have recourse to paragraphs 1 or 4, they shall immediately inform the disabled person or person with reduced mobility of the specific reasons therefor. On request, those reasons shall be notified to the disabled person or person with reduced mobility in writing, no later than five working days after the request. In the event of refusal according to paragraph 1(a), reference shall be made to the applicable safety requirements.

Article 9

Accessibility and information

1. In cooperation with organisations representative of disabled persons or persons with reduced mobility, carriers and terminal operators shall, where appropriate through their organisations, establish, or have in place, non-discriminatory access conditions for the transport of disabled persons and persons with reduced mobility and accompanying persons. The access conditions shall upon request be communicated to the body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015.

2. The access conditions provided for in paragraph 1 shall be made publicly available by carriers and terminal operators physically or on the Internet, in accessible formats on request, and in the same languages as those in which information is generally made available to all passengers. Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

3. Tour operators shall make available the access conditions provided for in paragraph 1 which apply to journeys included in package travel, package holidays and package tours which they organise, sell or offer for sale.

4. Carriers, travel agents and tour operators shall ensure that all relevant information, including online reservation and information, concerning the conditions of carriage, journey information and access conditions is available in appropriate and accessible formats for disabled persons and persons with reduced mobility. Persons needing assistance shall receive confirmation of such assistance by any means available, including electronic means or Short Message Service (SMS).

Article 10

Right to assistance in ports and on board ships

Subject to the access conditions provided for in Article 9(1), carriers and terminal operators shall, within their respective areas of competence, provide assistance free of charge to disabled persons and persons with reduced mobility, as specified in Annexes II and III, in ports, including embarkation and disembarkation, and on board ships. The assistance shall, if possible, be adapted to the individual needs of the disabled person or person with reduced mobility.

Article 11

Conditions under which assistance is provided

1. Carriers and terminal operators shall, within their respective areas of competence, provide assistance to disabled persons and persons with reduced mobility as set out in Article 10 provided that:

(a) the carrier or the terminal operator is notified, by any means available, including electronic means or SMS, of the person's need for such assistance at the latest 48 hours before the assistance is needed, unless a shorter period is agreed between the passenger and the carrier or terminal operator; and

(b) the disabled person or person with reduced mobility presents himself at the port or at the designated point as referred to in Article 12(3):

  (i) at a time stipulated in writing by the carrier which shall not be more than 60 minutes before the published embarkation time; or

  (ii) if no embarkation time is stipulated, no later than 60 minutes before the published departure time, unless a shorter period is agreed between the passenger and the carrier or terminal operator.

2. In addition to paragraph 1, disabled persons or persons with reduced mobility shall notify the carrier, at the time of reservation or advance purchase of the ticket, of their specific needs with regard to accommodation, seating or services required or their need to bring medical equipment, provided the need is known at that time.

3. A notification made in accordance with paragraphs 1(a) and 2 may always be submitted to the travel agent or the tour operator from which the ticket was purchased. Where the ticket permits multiple journeys, one notification shall be sufficient provided that adequate information on the timing of subsequent journeys is provided. The passenger shall receive a confirmation stating that the assistance needs have been notified as required in accordance with paragraphs 1(a) and 2.

4. Where no notification is made in accordance with paragraphs 1(a) and 2, carriers and terminal operators shall nonetheless make all reasonable efforts to ensure that the assistance is provided in such a way that the disabled person or person with reduced mobility is able to embark, disembark and travel on the ship.

5. Where a disabled person or person with reduced mobility is accompanied by a recognised assistance dog, that dog shall be accommodated together with that person, provided that the carrier, travel agent or tour operator is notified in accordance with applicable rules on the carriage of recognised assistance dogs on board passenger ships, where such rules exist.

Article 12

Reception of notifications and designation of meeting points

1. Carriers, terminal operators, travel agents and tour operators shall take all measures necessary for the request for notifications, and for the reception of notifications made in accordance with Article 11(1)(a) and 11(2). That obligation shall apply at all their points of sale, including sale by telephone and over the Internet.

2. If travel agents or tour operators receive the notification referred to in paragraph 1 they shall, within their normal office hours, transfer the information to the carrier or terminal operator without delay.

3. Carriers and terminal operators shall designate a point inside or outside port terminals at which disabled persons or persons with reduced mobility can announce their arrival and request assistance. That point shall be clearly signposted and shall offer basic information about the port terminal and assistance provided, in accessible formats.

Article 13

Quality standards for assistance

1. Terminal operators and carriers operating port terminals or passenger services with a total of more than 100 000 commercial passenger movements during the previous calendar year shall, within their respective areas of competence, set quality standards for the assistance specified in Annexes II and III and shall, where appropriate through their organisations, determine resource requirements for meeting those standards, in cooperation with organisations representative of disabled persons or persons with reduced mobility.

2. In setting quality standards, full account shall be taken of internationally recognised policies and codes of conduct concerning facilitation of the transport of disabled persons or persons with reduced mobility, notably the IMO's Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons' needs.

3. The quality standards provided for in paragraph 1 shall be made publicly available by terminal operators and carriers physically or on the Internet in accessible formats and in the same languages as those in which information is generally made available to all passengers.

Article 14

Training and instructions

Without prejudice to the International Convention and Code on Standards of Training, Certification and Watchkeeping for Seafarers and to the regulations adopted under the Revised Convention for Rhine Navigation and the Convention regarding the Regime of Navigation on the Danube, carriers and, where appropriate, terminal operators shall establish disability-related training procedures, including instructions, and ensure that:

(a) their personnel, including those employed by any other performing party, providing direct assistance to disabled persons and persons with reduced mobility are trained or instructed as described in Annex IV, Parts A and B;

(b) their personnel who are otherwise responsible for the reservation and selling of tickets or embarkation and disembarkation, including those employed by any other performing party, are trained or instructed as described in Annex IV, Part A; and

(c) the categories of personnel referred to in points (a) and (b) maintain their competences, for example through instructions or refresher training courses when appropriate.

Article 15

Compensation in respect of mobility equipment or other specific equipment

1. Carriers and terminal operators shall be liable for loss suffered as a result of the loss of or damage to mobility equipment or other specific equipment, used by a disabled person or person with reduced mobility, if the incident which caused the loss was due to the fault or neglect of the carrier or the terminal operator. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.

2. The compensation referred to in paragraph 1 shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.

3. Paragraphs 1 and 2 shall not apply if Article 4 of Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents applies.

4. Moreover, every effort shall be undertaken to rapidly provide temporary replacement equipment which is a suitable alternative.

CHAPTER III

OBLIGATIONS OF CARRIERS AND TERMINAL OPERATORS IN THE EVENT OF INTERRUPTED TRAVEL

Article 16

Information in the event of cancelled or delayed departures

1. In the case of a cancellation or a delay in departure of a passenger service or a cruise, passengers departing from port terminals or, if possible, passengers departing from ports shall be informed by the carrier or, where appropriate, by the terminal operator, of the situation as soon as possible and in any event no later than 30 minutes after the scheduled time of departure, and of the estimated departure time and estimated arrival time as soon as that information is available.

2. If passengers miss a connecting transport service due to a cancellation or delay, the carrier and, where appropriate, the terminal operator shall make reasonable efforts to inform the passengers concerned of alternative connections.

3. The carrier or, where appropriate, the terminal operator, shall ensure that disabled persons or persons with reduced mobility receive the information required under paragraphs 1 and 2 in accessible formats.

Article 17

Assistance in the event of cancelled or delayed departures

1. Where a carrier reasonably expects the departure of a passenger service or a cruise to be cancelled or delayed for more than 90 minutes beyond its scheduled time of departure, passengers departing from port

terminals shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available or can reasonably be supplied.

2. In the case of a cancellation or a delay in departure where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary, where and when physically possible, the carrier shall offer passengers departing from port terminals, free of charge, adequate accommodation on board, or ashore, and transport to and from the port terminal and place of accommodation in addition to the snacks, meals or refreshments provided for in paragraph 1. For each passenger, the carrier may limit the total cost of accommodation ashore, not including transport to and from the port terminal and place of accommodation, to £70 per night, for a maximum of three nights.

3. In applying paragraphs 1 and 2, the carrier shall pay particular attention to the needs of disabled persons and persons with reduced mobility and any accompanying persons.

Article 18

Re-routing and reimbursement in the event of cancelled or delayed departures

1. Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 90 minutes, the passenger shall immediately be offered the choice between:

(a) re-routing to the final destination, under comparable conditions, as set out in the transport contract, at the earliest opportunity and at no additional cost;

(b) reimbursement of the ticket price and, where relevant, a return service free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.

2. Where a passenger service is cancelled or delayed in departure from a port for more than 90 minutes, passengers shall have the right to such re-routing or reimbursement of the ticket price from the carrier.

3. The payment of the reimbursement provided for in paragraphs 1(b) and 2 shall be made within 7 days, in cash, by electronic bank transfer, bank order or bank cheque, of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made where the journey no longer serves any purpose in relation to the passenger's original travel plan. Where the passenger agrees, the full reimbursement may also be paid in the form of vouchers and/or other services in an amount equivalent to the price for which the ticket was purchased, provided that the conditions are flexible, particularly regarding the period of validity and the destination.

Article 19

Compensation of the ticket price in the event of delay in arrival

1. Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation shall be 25 % of the ticket price for a delay of at least:

(a) 1 hour in the case of a scheduled journey of up to 4 hours;

(b) 2 hours in the case of a scheduled journey of more than 4 hours, but not exceeding 8 hours;

(c) 3 hours in the case of a scheduled journey of more than 8 hours, but not exceeding 24 hours; or

(d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points (a) to (d), the compensation shall be 50 % of the ticket price.

2. Passengers who hold a travel pass or a season ticket and who encounter recurrent delays in arrival during its period of validity may request adequate compensation in accordance with the carrier's compensation arrangements. These arrangements shall state the criteria for determining delay in arrival and for calculation of compensation.

3. Compensation shall be calculated in relation to the price which the passenger actually paid for the delayed passenger service.

4. Where the transport is for a return journey, compensation for delay in arrival on either the outward or the return leg shall be calculated in relation to half of the price paid for the transport by that passenger service.

5. The compensation shall be paid within 1 month after the submission of the request for compensation. The compensation may be paid in vouchers and/or other services, provided that the conditions are flexible, particularly regarding the period of validity and the destination. The compensation shall be paid in money at the request of the passenger.

6. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Carriers may introduce a minimum threshold under which payments for compensation will not be paid. This threshold shall not exceed £5.

Article 20

Exemptions

1. Articles 17, 18 and 19 shall not apply to passengers with open tickets as long as the time of departure is not specified, except for passengers holding a travel pass or a season ticket.

2. Articles 17 and 19 shall not apply if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger.

3. Article 17(2) shall not apply where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

4. Article 19 shall not apply where the carrier proves that the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or by extraordinary circumstances hindering the performance of the passenger service which could not have been avoided even if all reasonable measures had been taken.

Article 21

Further claims

Nothing in this Regulation shall preclude passengers from seeking damages in accordance with any enactment or rule of law in respect of loss resulting from cancellation or delay of transport services before the Supreme Court of Gibraltar.

CHAPTER IV

GENERAL RULES ON INFORMATION AND COMPLAINTS

Article 22

Right to travel information

Carriers and terminal operators shall, within their respective areas of competence, provide passengers with adequate information throughout their travel in formats which are accessible to everybody and in the same languages as those in which information is generally made available to all passengers. Particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

Article 23

Information on passenger rights

1. Carriers, terminal operators and, when applicable, port authorities, shall, within their respective areas of competence, ensure that information on the rights of passengers under this Regulation is publicly available on board ships, in ports, if possible, and in port terminals. The information shall be provided as far as possible in accessible formats and in the same languages as those in which information is generally made available to all passengers. When that information is provided particular attention shall be paid to the needs of disabled persons and persons with reduced mobility.

2. In order to comply with the information requirement referred to in paragraph 1, carriers, terminal operators and, when applicable, port authorities, may use a summary of the provisions of this Regulation prepared by the body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015 and made available to them.

3. Carriers, terminal operators and, when applicable, port authorities shall inform passengers in an appropriate manner on board ships, in ports, if possible, and in port terminals, of the contact details of the enforcement body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015.

Article 24

Complaints

1. Carriers and terminal operators shall set up or have in place an accessible complaint-handling mechanism for rights and obligations covered by this Regulation.

2. Where a passenger covered by this Regulation wants to make a complaint to the carrier or terminal operator, he shall submit it within 2 months from the date on which the service was performed or when a service should have been performed. Within 1 month of receiving the complaint, the carrier or terminal operator shall give notice to the passenger that his complaint has been substantiated, rejected or is still being considered. The time taken to provide the final reply shall not be longer than 2 months from the receipt of a complaint.

CHAPTER V

ENFORCEMENT AND NATIONAL ENFORCEMENT BODIES

Article 25

Enforcement bodies

1. Regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015 designates the body responsible for the enforcement of this Regulation.

2. Any passenger may submit a complaint about an alleged infringement of this Regulation to the body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015. That body must provide passengers with a substantiated reply to their complaint within a reasonable period of time, under the provisions in Article 24.

3. The passenger must, as a first step, submit the complaint covered by this Regulation to the carrier or terminal operator. The body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015 is the appeal body for complaints not resolved under Article 24.

Article 26

Report on enforcement

By 1 June 2015 and every 2 years thereafter, the enforcement body designated under regulation 8 of the Gibraltar Merchant Shipping (Passengers' Rights) Regulations 2015 must publish a report on its activity in the previous two calendar years, containing in particular a description of actions taken in order to implement the provisions of this Regulation, details of sanctions applied and statistics on complaints and sanctions applied.

Article 27

Deleted

Article 28

Penalties

The Merchant Shipping (Passengers' Rights) Regulations 2013 lay down rules on penalties applicable to the infringement of the provisions of this Regulation.

CHAPTER VI

FINAL PROVISIONS

Article 29

Deleted

Article 30

Amendment to Regulation (EC) No 2006/2004

In the Annex to Regulation (EC) No 2006/2004 the following point shall be added:

‘18.Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway.’

Article 31

Deleted

Done at Strasbourg, 24 November 2010.

ANNEX I

RIGHT TO REIMBURSEMENT OR RE-ROUTING FOR DISABLED PERSONS AND PERSONS WITH REDUCED MOBILITY AS REFERRED TO IN ARTICLE 8

1. Where reference is made to this Annex, disabled persons and persons with reduced mobility shall be offered the choice between:

(a)

- reimbursement within 7 days, paid in cash, by electronic bank transfer, bank order or bank cheque, of the full cost of the ticket at the price at which it was purchased, for the part or parts of the journey not made, and for the part or parts already made if the journey no longer serves any purpose in relation to the passenger's original travel plan, plus, where relevant,

- a return service to the first point of departure, at the earliest opportunity; or

(b) re-routing to the final destination as set out in the transport contract, at no additional cost and under comparable conditions, at the earliest opportunity; or

(c) re-routing to the final destination as set out in the transport contract, under comparable conditions, at a later date at the passenger's convenience, subject to availability of tickets.

2. Paragraph 1(a) shall also apply to passengers whose journeys form part of a package, except for the right to reimbursement where such a right arises under the Package Travel, Package Holidays and Package Tours Act 1994.

3. When, in the case where a town, city or region is served by several ports, a carrier offers a passenger a journey to an alternative port to that for which the reservation was made, the carrier shall bear the cost of transferring the passenger from that alternative port either to that for which the reservation was made, or to

another nearby destination agreed with the passenger.

ANNEX II

ASSISTANCE IN PORTS, INCLUDING EMBARKATION AND DISEMBARKATION, AS REFERRED TO IN ARTICLES 10 AND 13

1. Assistance and arrangements necessary to enable disabled persons and persons with reduced mobility to:

- communicate their arrival at a port terminal or, if possible, a port and their request for assistance,
- move from an entry point to the check-in counter, if any, or to the ship,
- check in and register baggage, if necessary,
- proceed from the check-in counter, if any, to the ship, through emigration and security points,
- embark the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- proceed from the ship door to their seats/area,
- store and retrieve baggage on the ship,
- proceed from their seats to the ship door,
- disembark from the ship, with the provision of lifts, wheelchairs or other assistance needed, as appropriate,
- retrieve baggage, if necessary, and proceed through immigration and customs points,
- proceed from the baggage hall or the disembarkation point to a designated point of exit,
- if required, make their way to the toilet facilities (if any).

2. Where a disabled person or person with reduced mobility is assisted by an accompanying person, that person must, if requested, be allowed to provide the necessary assistance in the port and with embarking and disembarking.

3. Handling of all necessary mobility equipment, including equipment such as electric wheelchairs.

4. Temporary replacement of damaged or lost mobility equipment with equipment which is a suitable alternative.

5. Ground handling of recognised assistance dogs, when relevant.

6. Communication in accessible formats of information needed to embark and disembark.

ANNEX III

ASSISTANCE ON BOARD SHIPS AS REFERRED TO IN ARTICLES 10 AND 13

1. Carriage of recognised assistance dogs on board the ship, subject to any enactment or rule of law.

2. Carriage of medical equipment and of the mobility equipment necessary for the disabled person or person with reduced mobility, including electric wheelchairs.

3. Communication of essential information concerning a route in accessible formats.

4. Making all reasonable efforts to arrange seating to meet the needs of disabled persons or persons with reduced mobility on request and subject to safety requirements and availability.

5. If required, assistance in moving to toilet facilities (if any).

6. Where a disabled person or person with reduced mobility is assisted by an accompanying person, the carrier shall make all reasonable efforts to give such person a seat or a cabin next to the disabled person or person with reduced mobility.

ANNEX IV

DISABILITY-RELATED TRAINING, INCLUDING INSTRUCTIONS, AS REFERRED TO IN ARTICLE 14

A. Disability-awareness training, including instructions

Disability-awareness training, including instructions, includes:

- awareness of and appropriate responses to passengers with physical, sensory (hearing and visual), hidden or learning disabilities, including how to distinguish between the different abilities of persons whose mobility, orientation or communication may be reduced,
- barriers faced by disabled persons and persons with reduced mobility, including attitudinal, environmental/physical and organisational barriers,
- recognised assistance dogs, including the role and the needs of an assistance dog,
- dealing with unexpected occurrences,
- interpersonal skills and methods of communication with people with hearing impairments, visual impairments or speech impairments and people with a learning disability,
- general awareness of IMO guidelines relating to the Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons' needs.

B. Disability-assistance training, including instructions

Disability-assistance training, including instructions, includes:

- how to help wheelchair users make transfers into and out of a wheelchair,
- skills for providing assistance to disabled persons and persons with reduced mobility travelling with a recognised assistance dog, including the role and the needs of those dogs,
- techniques for escorting passengers with visual impairments and for the handling and carriage of recognised assistance dogs,
- an understanding of the types of equipment which can assist disabled persons and persons with reduced mobility and a knowledge of how to carefully handle such equipment,
- the use of boarding and deboarding assistance equipment used and knowledge of the appropriate boarding and deboarding assistance procedures that safeguard the safety and dignity of disabled persons and persons with reduced mobility,
- understanding of the need for reliable and professional assistance. Also awareness of the potential of certain disabled persons and persons with reduced mobility to experience feelings of vulnerability during travel because of their dependence on the assistance provided,
- a knowledge of first aid.