



Agenda Item:	Reference: HACC.491
Date: May 13 2007	
Rights of Disabled Persons and Persons with Reduced Mobility when Travelling by Air	

Report by the Technical Adviser

1. The Department for Transport has invited the views of the HACC about draft rules which are to be made to make travelling through airports and on aircraft easier for people with physical handicaps.
2. During it's Presidency of the European Union in 2005, the UK Government gave priority to progressing a new European Regulation to improve the rights of disabled air travellers and person with reduced mobility travelling by air. The Regulation was agreed by the European Parliament and Council and subsequently published on July 5 2006 as Regulation (EC) No.1107/2006.
3. Governments in EU Member States are required to ensure compliance with the Regulation and the Department has published, as a public consultation, proposals on how the enforcement of the Regulation in the UK will be effected and the penalties applicable to infringements of the Regulation. Responses are invited by June 25.
4. The provisions of the Regulation give a very wide definition of those people to which it applies – “any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotory, permanent or temporary) intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers”.
5. The Regulation is directly applicable in UK law so the Department is not seeking comments on the substance of the Regulation itself, ultimately it is for the Courts to decide on its interpretation. The purpose of this consultation is to seek views on the proposed penalties for infringements of the Regulation and on the mechanism for handling complaints, enforcement and seeking compensation.
6. It is proposed to delegate the enforcement of the Regulation to the Civil Aviation Authority in collaboration with the Disability Rights Commission which is to be subsumed into the new Commission for Equality and Human Rights, and this will be promulgated through a Statutory Instrument entitled “The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007.
7. The Department's proposals provide for penalties with fines, normally of up to £5,000, but in cases of wilful infringement, will be unlimited.
8. Articles 3 and 4 of the Regulation, which make it illegal for an air carrier or its agent or a tour operator to refuse to make a reservation or to embark a person with reduced mobility, will come into effect on July 26 2007 and the remainder from 26 July 2008. A Summary of the provisions of the Regulation is at Annex A to this report and a Draft list of Offences and Penalties is at Annex B.

## PRESENT AND PROPOSED PRACTICES

9. The Department has issued a Code of Practice on Access to Air Travel for Disabled People compliance with which is on a voluntary basis but is observed at Heathrow Airport. Broadly, those people in need of assistance on arrival at the airport are the responsibility of the airport management until they reach the check-in desk when the airline will take over. However, under the new regulations, BAA Heathrow is to take the entire responsibility for people with reduced mobility from the point of arrival until seated in an aircraft and it is considering tenders for undertaking this task received from handling agents.
10. The Department recognises that stakeholders may seek guidance or interpretation of particular provisions of this new Regulation and is proposing to undertake a further consultation on an update of that Code before the Regulation comes into full effect in July 2008. The Secretariat has offered to participate in the Working Group being set up to consider the updating process.
11. The HACC has considered arrangements for people with reduced mobility at Heathrow on a number of occasions in recent years with presentations from the BAA Mobility Adviser. The Committee recognised the need for some expertise on the subject to be available for it at meetings of the Passenger Services Sub-Committee and had appointed to it a member from Greater London Action for the Disabled (GLAD). Regrettably, representatives from that organisation have failed to attend the meetings and a replacement organisation is being sought.
12. The Department for Transport held a briefing meeting on May 15 for representatives of airports, airlines and consultative committees when a number of questions were raised and, in some cases, answered. A variety of matters remain to be decided before the Regulation becomes fully effective in July 2008 and some will have to be determined in the Courts.
13. The CAA's role is to be monitoring trends of non-compliance, using information gathered by the complaints handling body, proposed to be the soon to be created Commission for Equality and Human Rights, and in the first instance, to make reasonable efforts to seek compliance. Where these fail, it will consider using its powers granted under the regulations to initiate legal proceedings.

## CONSULTATION QUESTIONS

### 14. The questions to which the Department is seeking responses are:

- **The Regulation requires sanctions to be effective, proportionate and dissuasive. Do you consider that the proposed offences and penalties meet these objectives?**
- **Are you content with the Government's proposed delegation of responsibilities to the CAA and to the Disability Rights Commission/ Commission for Equality and Human Rights**
- **Do you agree with the regulatory impact assessment? In particular do you agree with the assumptions made about the costs and benefits of the respective sanctions regimes and can you provide any more information about how the proposed approach to enforcement may affect your business, or your members business?**
- **Do you have any further comments in connection with the Government's approach to the enforcement of the Regulation?**

15. It will be outside of the experience of most of the members of the HACC to be able to comment on some of these matters and particularly since they will not have access to the voluminous documentation accompanying the consultation. It is proposed that the Regulation be debated by the Committee with the assistance of the information which has been included in this report as being the most likely elements to interest Members and that any matters which are raised in consequence, perhaps from personal experience, should be taken account of in a response to be prepared by the Secretariat.

mgh/491