



STATUTORY INSTRUMENTS.

S.I. No. 394 of 2012

EUROPEAN UNION (RIGHTS OF PASSENGERS WHEN
TRAVELLING BY SEA AND INLAND WATERWAY) REGULATIONS
2012

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2012

I, LEO VARADKAR, Minister for Transport, Tourism and Sport, 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 (EU) No. 1177/2010 of the European Parliament and of the Council of 24 November 2010¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Rights of Passengers when Travelling by Sea and Inland Waterway) Regulations 2012.

(2) These Regulations come into operation on 18 December 2012.

2. In these Regulations—

“Authority” means National Transport Authority;

“EU Regulation” means Regulation (EU) No. 1177/2010 of the European Parliament and of the Council of 24 November 2010¹;

“provider” means carrier, Union carrier, performing carrier, ticket vendor, travel agent, tour operator or terminal operator (within the meaning of the EU Regulation) as the case may be.

3. The Authority is designated responsibility for the enforcement of the EU Regulation in the State which, accordingly, is a function of the Authority under the Dublin Transport Authority Act 2008 (No. 15 of 2008) and, accordingly, references in section 78 and 79 of that Act to a public transport authority or operator shall be read as including references to a provider.

4. (1) The Authority, either on its own initiative or following a complaint to it by a passenger, being of the opinion that a provider is failing to comply with or is infringing the EU Regulation shall cause to be served on the provider a notice specifying the failure or infringement concerned and requiring the provider to take such measures as are specified in the notice, within such period as may be specified, for the purposes of complying with the notice.

(2) A provider on whom a notice is served under paragraph (1) may, within 21 days of the service of the notice, make representations to the Authority. The Authority shall consider any such representations and shall by notice, confirm, modify or withdraw the notice.

¹O.J. No. L 334, 17.12.2010, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 12th October, 2012.*

(3) A provider on whom a notice is served under this Regulation who fails to comply with the notice commits an offence and is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

5. (1) A notice that is required to be served on a person under these Regulations shall be addressed to the person concerned by name, and may be so served on 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 ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post (provided a certificate of posting is obtained) to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) in a case in which an e-mail address for service has been furnished, to that e-mail address.

(2) For the purpose of this Regulation, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

6. Where an offence under Regulation 4 is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

7. Proceedings may be brought summarily by the Authority for an offence under Regulation 4.



GIVEN under my Official Seal,
10 October 2012.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

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

The purpose of these Regulations is to give full effect to 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. The Regulations designate the National Transport Authority (NTA) as the enforcement body for the purposes of Article 25 of Regulation (EU) No. 1177/2010 in relation to passenger services and cruises from ports situated in the State and passenger services from a third country to such ports. The Regulations amend the Dublin Transport Authority Act, 2008, as amended, to extend the functions of the NTA to include national enforcement of Regulation (EU) No. 1177/2010. The Regulations also provide for penalties for infringement of the provisions of Regulation (EU) No. 1177/2010 and these Regulations.

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