



STATUTORY INSTRUMENTS.

S.I. No. 195 of 2021



EUROPEAN UNION (CONSUMER PROTECTION) (COMMISSION FOR
AVIATION REGULATION) REGULATIONS 2021

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I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017¹ on co-operation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004, in so far as Regulation (EU) 2017/2394 relates to the operation of air services, package travel and linked travel arrangements, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Consumer Protection) (Commission for Aviation Regulation) Regulations 2021.

Interpretation

2. (1) In these Regulations –
“Act of 1995” means the Package Holidays and Travel Trade Act 1995 (No. 17 of 1995);
“Act of 2001” means the Aviation Regulation Act 2001 (No. 1 of 2001);
“Council Regulation” means Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017² on co-operation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004;
“Commission” means the Commission for Aviation Regulation.

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

Designation of Competent Authority

3. The Commission for Aviation Regulation is designated as the competent authority under Article 5(1) of the Council Regulation for the enforcement of those laws that protect consumers’ interests specified in column 3 to the Schedule of S.I. No. 14 of 2020 at reference numbers 8, 10, 15 and 25.

¹ OJ No L 345 27.12.2017, p. 1.

² OJ No L 345 27.12.2017, p.1.

Minimum powers of Commission

4. (1) For the purposes of investigations relating to the Council Regulation, the Commission shall have the investigation powers referred to in Article 9(3) of the Council Regulation.

(2) For the purpose of enforcement of the Council Regulation, the Commission shall have the enforcement powers referred to in Article 9(4) (a) to (g) of the Council Regulation.

(3) The Commission –

- (a) shall have the power to start investigations or proceedings in accordance with Article 9(6) of the Council Regulation, and
- (b) may publish any final decision, traders commitments or orders adopted pursuant to the Council Regulation in accordance with Article 9(7) of the Council Regulation.

(4) The powers referred to in paragraphs (1), (2) and (3) shall be exercised by the Commission in accordance with Article 10 of the Council Regulation.

Offences

5. (1) For the purposes of Article 9(4)(h) of the Council Regulation and the powers of enforcement conferred on the Commission under Regulation 5(2), a person who fails to comply with a decision, order, interim measure, trader's commitment or other measure specified in Article -

- (a) 9(4)(a),
- (b) 9(4)(b),
- (c) 9(4)(c),
- (d) 9(4)(d),
- (e) 9(4)(e),
- (f) 9(4)(f), or
- (g) 9(4)(g)(i) to (iii),

of the Council Regulation shall be guilty of an offence.

(2) Where a person commits an intra-Union infringement, a widespread infringement or a widespread infringement with a Union dimension relating to a national measure for which the Commission is designated as the competent authority under Article 5(1) of the Council Regulation, he or she commits an offence.

(3) For the purposes of paragraph (2) and Regulation 6 (2), a “national measure” means the following:

- (a) section 20 of the Transport (Tour Operators and Travel Agents) Act, 1982 (No. 3 of 1982);
- (b) section 6 of the Act of 1995;
- (c) sections 42, 45A of the Act of 2001;

- (d) European Communities (Rights of Disabled Persons and Persons With Reduced Mobility When Travelling By Air) Regulations 2008 (S.I. No. 299 of 2008);
- (f) Regulation No. 5 of European Communities (Common Rules for the Operation of Air Services in the Community) Regulations 2008 (S.I. No. 426 of 2008).

Penalties

6. (1) A person who commits an offence under Regulation 5 (1) shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or to both.

(2) Where a person commits an offence under a national measure and, the offence concerned also constitutes an offence under Regulation 6(2), the penalty in respect of the second mentioned offence shall be the penalty specified in the national measure in respect of the first mentioned offence concerned.



GIVEN under my Official Seal,
26 April, 2021.

EAMON RYAN,
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 implement Regulation (EU) 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws in so far as Regulation (EU) 2017/2394 relates to national measures concerning consumers' interests specified in column 3 to the Schedule of S.I. No. 14 of 2020 at reference numbers 8, 10, 15 and 25. These Regulations provide the Commission for Aviation Regulation with the investigation and enforcement powers required under Article 9 of the Council Regulation.

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