



Government of India

Office of the Director General of Civil Aviation

Technical Center, Opposite Safdarjung Airport, New Delhi

CIVIL AVIATION REQUIREMENT

SECTION 3 AIR TRANSPORT

SERIES 'X' PART I

1 June, 2008

Effective : FORTHWITH

Subject : Facilities to be provided to passengers by airlines due to delays, denied boarding and cancellations etc.

1. Introduction

- 1.1 With the introduction of a large number of air operators and the ensuing competition among them to provide cheaper services, it is likely that the interest of the fare paying passenger is ignored and is denied certain basic rights. A number of complaints are received by the Ministry of Civil Aviation and DGCA from the passengers, complaining against the treatment meted out by the airlines. *This CAR is aimed at providing regulations in the interest of travelling passengers, and the minimum facilities which must be provided to the passengers.*
- 1.2 The Government considers it necessary to raise the standards of protection both to strengthen the rights of the passengers and to ensure that the air carriers operate under harmonized conditions in a liberalized market. As the distinction between the scheduled and non-scheduled services is weakening, such protections should apply to passengers not only on scheduled but also on non-scheduled flights, including charters and those forming package tours.
- 1.3 In order to ensure effective application of this regulation, the obligation that it carries shall rest with the carrier which performs or intends to perform a flight whether with its own aircraft, under dry or wet lease or on any other basis. This regulation, however, does not restrict the rights of the operating air carrier to seek compensation from any person, including third parties, in accordance with the applicable law.
- 1.4 The number of passengers **denied boarding** against their will needs to be reduced by requiring air carriers to call for volunteers to surrender their reservations, in exchange of benefits, instead of denying passengers boarding, and by fully compensating those finally denied boarding. Passengers denied boarding against their will should be either be able to cancel their intended flight,

with reimbursement of their tickets, or to continue them at a later date/time under satisfactory conditions, and should be adequately cared for while awaiting their later flights. Volunteers should also be able to cancel their flights with reimbursements of their tickets, or continue them subsequently under satisfactory conditions, since they face difficulties of travel similar to those experienced by passengers denied boarding against their will.

- 1.5 The trouble and inconvenience to passengers caused by **cancellations of their flights** should also be reduced. This can be achieved by inducing carriers to inform the passengers of cancellations before the scheduled time of departure and in addition to offer them a reasonable rerouting so that the passengers can make alternate arrangements. Air carriers should compensate passengers if they fail to do this except when the cancellation occurs in exceptional circumstances which could not have been avoided even if all reasonable measures had been taken. Passengers whose flights have been cancelled should be able to either obtain reimbursements of their tickets or obtain re-routing under satisfactory conditions, and should be adequately cared for while waiting for a later flight. (13)
- 1.6 As under the Montreal Convention, obligations on the operating carrier should be limited or excluded, in cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier. Extraordinary circumstances should be deemed to exist where the impact of an air traffic management decision in relation to a particular aircraft on a particular day gives rise to a long delay, an overnight delay, or the cancellation of one or more flights by that aircraft, even though all reasonable measures had been taken by the air carrier concerned to avoid the delays or cancellations.
- 1.7 In cases where a **package tour is cancelled** for reasons other than the flight being cancelled, this requirement should not apply. Passengers whose flights are delayed for a specified time should be adequately cared for by the tour operator in conjunction with the air operator and should be able to cancel their flights with reimbursement of their tickets or continue them under satisfactory conditions. Care for passengers awaiting an alternative or a delayed flight may be limited or declined if the provision of the care would itself cause further delay.
- 1.8 Operating air carriers are required to meet the special needs of persons with reduced mobility and for persons accompanying them.
- 1.9 Passengers shall be fully informed by the air carriers of their rights in the event of denied boarding, and of cancellations or long delays of flight so that they can effectively exercise their rights. This information is to be mandatorily included in ticketing documents and on the airline website.
- 1.10 In consideration to the contents This CAR is issued under Rule 133A of the Aircraft Rules, and order No. ___ dated ___ of the Ministry of Civil Aviation,

New Delhi, and is applicable to all scheduled, non-scheduled and chartered operators.

2. Definitions

2.1 *Air carrier* means an air transporting undertaking operating with a valid operating Permit such as Scheduled, Non-scheduled or Charter service.

2.2 *Operating air carrier* that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contact with that passenger;

2.3 *Tour operator* means, with the exception of an air carrier, an organization which provides package travel, package holiday and package tours.

2.4 *Reservation* means the fact that the passenger has a ticket or other proof which indicates that the reservation has been accepted and registered by the air carrier or tour operator.

2.5 *Final destination* means the destination on the ticket presented at the check-in counter, or, in the case of directly connecting flights, the destination of the last flight; alternative connecting flights available shall not be taken into account if the original arrival time is respected.

2.6 *A person with reduced mobility* is as defined in CAR Section 3 Series 'M' Part I.

2.7 *Denied boarding* means a refusal to carry passengers on a flight, although they have presented themselves for boarding, except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation.

2.8 *Volunteer* means a person who has presented himself for boarding and responds positively to the air carrier's call for passengers prepared to surrender their reservation in exchange of benefits.

2.9 *Cancellation* means non-operation of a flight which was previously planned and on which at least one place was reserved.

3. REQUIREMENTS

3.1 Information about flights and reservations.

3.1.1 When making enquiries or booking a flight through an airline or its designated agent in India, each passenger shall be provided neutral and accurate information on the flight details and reservation status.

3.1.2 Unless a passenger requires something different, the airline/agent must supply to him with neutral information from a computerized reservation system, in particular on the different options available for a journey ranked in the following order:

- (a) Non-stop flights,
- (b) Flights with intermediate stops but without a change of aircraft,
- (c) Connecting flights,
- (d) All the fares available from airlines, as applicable.

3.1.3 The airline/agent must pass on to the passengers the information available in the computer system in the form of a computer print-out :

- (a) The identity of the air carrier which will actually provide the service, as opposed to the carrier mentioned on the ticket;
- (b) Changes of aircraft during the journey;
- (c) Stops enroute during the journey;
- (d) Transfers between the airports during the journey.

3.1.4 Full assistance in the form of meals, beverages, communication facilities and a hotel room for the night, if necessary, must always be offered to all stranded passengers even if the delay or cancellation was caused by extraordinary circumstances or a force majeure incident.

3.2 Denied boarding

3.2.1 When there are too many passengers for the seats available, an airline must first ask for volunteers to give up their seats in return for agreed benefits. These must include the choice of either refund of the ticket (with a free flight back to the passenger's initial point of departure, when relevant), or alternative transport to the passenger's final destination.

3.2.1 If the passenger is not a volunteer, the airline must pay a compensation of:

- (a) Rs. 5,000 for flights of 1500 km or less,
- (b) Rs.8,000 for longer flights within India, and for other flights between 1500 and 3500 km,
- (c) Rs. 12,000 for flights over 3500 km outside India.

3.2.2 Compensations may be halved if the passenger is delayed not more than 2, 3 or 4 hours respectively.

3.2.3 The airline must also give the passenger:

- (a) a choice of whether a refund of the ticket (with a free flight back to his initial point of departure, when relevant) or alternative transport to his final destination, and
- (b) meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.

- 3.2.4 In case of a denied boarding, the passenger shall be entitled to be compensated and to receive full assistance and in addition, the airline has to foresee alternate transport or re-routing to the final destination at the earliest convenience and subject to availability; or offer a reimbursement of the full cost of the ticket segments that were not used. This applies provided the passenger checks-in on time for any flight including non-scheduled and charter flights.

3.3 Cancellation

- 3.3.1 Whenever a passenger's flight is cancelled, the operating airline must give him:

- (a) a choice of either a refund of his ticket (with a free flight back to his initial point of departure, when relevant) or alternative transport to his final destination, and
- (b) meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.
- (c) The airlines may also have to compensate the passenger at the same level as for denied boarding, unless it gives him sufficient advance notice. The passengers shall be informed about the alternate transport.

- 3.3.2 Refunds may be in cash, by bank transfer, or with the passengers signed agreement, I travel vouchers, and must be paid within periods specified in CAR Section 3 Series M Part II.

- 3.3.3 Passengers not getting these facilities may complain to the airline operating the flight.

- 3.3.4 With regard to financial compensation to be paid for delays, the amount of the ticket will be refunded if the stranded passenger does not wish to continue his journey facing a delay for over 5 hours. He shall be entitled to cancel the flight on his own initiative and claim refund of the tickets not used. However, when financial compensation is to be in case of cancellations, airlines can in some cases invoke force-majeure and be exempted, but they will be obliged to inform passengers about the nature of cancellations. This written statement of the airline about the reasons of cancellation could subsequently be used in a court proceedings, which will decide whether the air carrier put all possible measures in place to avoid this situation from happening.

3.4 Long Delays

- 3.4.1 The airlines shall provide immediate assistance if the passenger has checked in on time from an Indian airport for any flight including non-scheduled/ charter flight, or for any flight to an Indian airport when operated by an Indian operator from outside India, and if the airline expects a delay:

- (a) Of 2 hours or more, for flights of 1500 km or less;
- (b) Of 3 hours or more, for longer flights within India, and for other flights between 1500 and 3500 km,

- (c) Of 4 hours or more for flights over 3500 km outside India, the airline must serve meals and refreshments, hotel accommodation when necessary (including transfers) and communication facilities.
- (d) When the delay is 5 hours or more, the airline shall also offer to refund the passenger's ticket (with a free flight back to his initial point of departure, when relevant).

3.5 When affected by denial boarding, a cancellation or a long delay, the passenger may complain directly to the airline. If the airline doesn't fulfill their obligations, the passenger may complain to the concerned Consumer Redressal Cell/ Board or any other National Enforcement Body (NEB).

3.6 The NEBs are independent from the aviation industry and may have the power to fine an airline, and /or the power to impose payment of compensation in individual cases. In cases as referred to above.

3.7 Later claims

When an India operator/airline is responsible for the delay of a flight anywhere in the world, the passenger may claim for any resulting damage. If the airline does not agree with your claim, the affected party may seek legal redressal. The claim can be made on the airline with which the passenger has a contract, or from another actually operating the flight, if the two are different.

3.8 Baggage

The passenger may claim for damages caused by the destruction, damage, loss or delay of his baggage on a flight by an Indian airline, anywhere in the world. If the airline does not agree with the claim, the passenger may seek legal redressal.

The damage to checked in baggage must be reported to the airline representative and must be claimed within 7 days of its return, and for delayed baggage, within 21 days of its return. The claim can be made from the airline with which the passenger has the contract or from that actually operating the flight, if the two are different.

3.9 Injury and death in accidents

The passenger may claim for damages caused by injury or death resulting from an accident on a flight of an Indian airline, anywhere in the world. The passenger will have a right to an advance payment for immediate economic needs. If the airline does not agree with the passenger's claim, he may seek legal redressal. The claim can be made on the airline with which the passenger has the contract or the airline which actually operated the flight, if the two are different.

3.10 Package holidays

A passenger may claim damage from a tour operator, if he fails to provide the services booked by the passenger in India, whatever the destination. This applies to failure to

provide any flight included in the tour package. Moreover, if the tour operator does not provide a significant part of the package booked, it is obliged to assist the passenger in making alternative arrangements, including travel, without extra cost to the passenger.

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