

Regulation (EU) No. 1177/2010 concerning the rights of passengers when travelling by sea and inland waterways

Guidance Note N° 0 - Overview

1. The guidance documents are intended to provide general information on those provisions within EU Regulation 1177/2010 ("EU Regulation") concerning the rights of passengers when travelling by sea and inland waterway that relate to the obligations of carriers (i.e. cruise and ferry operators) and port terminal operators.
2. The guidance notes are not intended as an article by article interpretation of the EU Regulation, they are however intended to provide an overview of the key provisions to assist passengers in understanding their rights and to provide details of where passengers can obtain further information and assistance.
3. Where a guidance note has an annex attached, the annex provides a summary of the key articles of the EU Regulation, relevant to that guidance note. This approach should enable readers to place the guidance into context¹.

What is the purpose of the EU Regulation?

4. The EU Regulation establishes the right of ferry and cruise passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival.
5. The EU Regulation also aims to provide disabled persons and persons with reduced mobility with the same opportunities to travel by ferry and cruise ship as they have in other transport sectors across the EU.
6. It is important to note that the conditions laid down in the EU Regulation are the legal minimum. Nothing in the EU Regulation prevents carriers and port terminal operators from offering more favourable conditions as part of their commitment to customer care.

When does the EU Regulation apply?

7. The EU Regulation applies to passengers travelling on a ferry departing from, or arriving in, the UK or any other EU Member State, or who have booked and paid for such a journey. The EU Regulation also applies to passengers travelling or booked on a cruise ship departing from the UK or any other EU Member State. The EU Regulation will apply to almost all international voyages and to many domestic ferry services that operate in the UK.
8. A summary of the full scope of the EU Regulation is outlined in Annex A.

What are the definitions of a 'ferry' and a 'cruise' for the EU Regulation?

¹ For further information – the EU Regulation itself is available at the Official Journal of the European Union's website at –
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0001:0016:EN:PDF>

9. The EU Regulation uses the term 'passenger service', which it defines as "a commercial passenger transport service by sea or inland waterways operated according to a published timetable", to denote a ferry. For ease of understanding, this guidance refers simply to "ferries". The word should be read as encompassing any service, including those involving an overnight voyage that might be marketed as a mini-cruise, that falls within the definition above and is not a cruise.

10. A '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.

What are the definitions of a 'disabled person' or 'person with reduced mobility' for the EU Regulation?

11. For the purposes of this EU Regulation a 'disabled person' or 'person with reduced mobility' is defined as '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'. This is different from the definition of "disability" in the Equality Act 2010.

To whom does the EU Regulation apply?

12. The EU Regulation gives rights to passengers (and, in the context of disability, to would-be passengers) but does not give rights to other people onboard a ship, such as crew or contractors. Whether or not a passenger has particular rights under the EU Regulation will partly depend on whether or not they have a transport contract with the carrier. This is not to be confused with a ticket or boarding card. Whilst a ticket or boarding card is usually evidence that a transport contract exists, it is not considered sufficient evidence to demonstrate that the holder of the ticket or boarding card and the holder of the transport contract are the same person.

13. Most passengers are entitled to receive some form of assistance in the event of cancelled or delayed departures. However, only those passengers who hold a transport contract with the carrier are entitled in the right circumstances, to be re-routed, refunded or compensated.

14. A passenger travelling by a bus or coach that is being transported by a ferry will normally have a transport contract with the bus or coach company rather than the ferry company and therefore is not entitled to be re-routed, refunded or compensated on an individual basis.

15. A passenger travelling on an integrated rail and ferry ticket is considered to have a transport contract with both the rail operator and the carrier and is therefore entitled to be re-routed, refunded or compensated. A passenger can expect any refund to be for the full cost of the ticket in accordance with the relevant section of this document. Details of how to access these entitlements should be available in the carriers Terms and Conditions.

16. Road haulage companies (and owners/operators of other commercial, utility and agricultural vehicles) have no rights under the EU Regulation. However, the drivers of lorries, vans and similar vehicles (and any companions travelling with

them) are entitled as individuals to assistance in the event of cancelled or delayed departures in the same way as other passengers who are delayed.

17. The EU Regulation gives no rights to passengers who miss their sailing because they arrive late at the check-in, regardless of the reason for their delay.

18. The EU Regulation does not affect the existing rights of passengers on cruises which may be regulated as a Package Holiday under the Package Travel, Package Holidays and Package Tours Regulations 1992 (PTRs). It is important to note that the definition of *cruise* in the EU Regulation is more restricted than the definition of *cruise* in the PTRs.

19. The EU Regulation does not apply to cases where a Package Holiday is cancelled for reasons other than cancellation of the ferry service. Such other cases may be dealt with under the PTRs.

Does the EU Regulation replace the need to have travel insurance?

20. No. Passengers travelling outside the UK are encouraged to take out robust and effective travel insurance to cover the risks relevant to their itinerary.

Do I have to check-in to access my rights?

21. Not necessarily, it will depend on the circumstances and the type of ticket.

22. Passengers' rights in respect of disability and reduced mobility apply at all stages of their dealings with a ferry or cruise operator (before, during and after travel) and while present in ports with manned terminals.

23. Certain other rights, such as the entitlement to snacks, meals and refreshments in the event of a delayed or cancelled departure, apply only at port terminals, and passengers will need to be at the terminal to access them. Passengers who have a paid-for booking for a particular sailing will need to have presented themselves (or be presented, if travelling by bus or coach) for check-in in accordance with their booking. Passengers travelling on an open ticket will need to have checked-in for a sailing to access their rights.

24. On the other hand, passengers' right to be informed about a lengthy delay or a cancellation begins as soon as they have made a booking and paid for it. A passenger does not therefore need to travel to the port in order to have their ticket refunded or to be re-routed if the sailing on which they were booked is delayed or cancelled.

25. Compensation for a delay in arriving at their destination is only payable to a passenger who has actually undertaken the journey covered in the transport contract.

Annex A

Scope (Article 2)

1. The EU Regulation applies in respect of passengers travelling:
 - a) on ferry services where the point of embarkation is situated in the territory of a Member State;
 - b) on ferry services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in the territory of a Member State, provided that the service is operated by a Union carrier, as defined below;
 - c) on a cruise where the port of embarkation is situated in the territory of a Member State.
2. The EU Regulation does 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 (usually reflected in the vessel's safe manning certificate) composed of not more than three persons or where the distance of the overall ferry 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. Member States may, for a period of 2 years from 18 December 2012, exempt from the application of this EU Regulation seagoing ships of less than 300 gross tons operated in domestic transport, provided that the rights of passengers under this Regulation are adequately ensured under national law.
4. Member States may exempt from the application of this EU Regulation ferry services covered by public service obligations, public service contracts or integrated services provided that the rights of passengers under this EU Regulation are comparably guaranteed under national law².
5. Without prejudice to Directive 2006/87/EC and to Directive 2009/45/EC, 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.

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have been taken into account).

² The EU Regulation provides an exemption from the application of the EU Regulation for seagoing vessels of less than 300 gross tons operated in domestic transport, provided that the rights of the passenger under this Regulation are adequately ensured under domestic law.

However, in the UK, there is no current legislation in place that provides such rights for maritime passengers. Therefore, there is no scope for the UK to apply the exemption in Article 2(3) of the EU Regulation (which, in any event, could only extend until 18 December 2014).