

Air Passenger Protection Regulations of Canada (SOR/2019-150)

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Policy behind the new rules

- Until 2019 passenger rights in case of flight disruptions were regulated mainly in the carriers' terms and conditions.
- This “has not always resulted in transparent, clear, fair, and consistent policies regarding the treatment of passengers”.
- New rules take into account US and EU experience.

Issues covered

(1) Communication with passengers; (2) Denied boarding; (3) Tarmac delays; (4) Lost or damaged baggage; (5) Transportation of musical instruments; (6) Delayed or cancelled flights; (7) Seating of children under the age of 14.

→ Enter into force in two stages: Issues (1)-(5) in force since 15 July 2019, issues (6)-(7) will enter into force on 15 December 2019.

Scope

- All flights to, from, and within Canada, incl. connecting flights.
- Operating air carrier responsible for obligation as to flight disruptions.
- Contractual air carrier responsible for information duties on the terms and conditions of carriage.

Distinction on causes of disruption

→ Passenger rights depend on the reason of the flight disruption:

- 1) Within the airline's control but not safety-related
= commercial decisions, e.g. commercial overbooking; scheduled aircraft maintenance; technical problem discovered during scheduled maintenance.

Distinction on causes of disruption (cont'd)

2) Within the airline's control but safety related

= typically unforeseen events legally required to reduce safety risk to passengers, e.g. safety decisions by the pilot or by the airline's SMS, sudden technical problems.

3) Outside the airline's control

= war/ political instability, sabotage, weather, ATC, NOTAMs, medical emergencies, bird strikes, labour strikes, manufacturing defect, orders from State agencies etc.

Overview of rights in flight disruptions

- 1) Situations within carrier's control: standards of treatment + compensation for inconvenience + rebooking/ refund.
- 2) Situations within carrier's control but required for safety: standards of treatment + rebooking/ refund.
- 3) Situations outside the carrier's control (e.g. natural phenomena, security events): rebooking.

Compensation

→ Depended upon delay in arrival at the final destination.

→ Distinction: Large carriers – Small carriers

Large carrier = a carrier that has transported a worldwide total of two million passengers or more during each of the two preceding calendar years.

→ Special “compensation for inconvenience”, for certain cases within the carrier’s control and not safety related

→ Compensation levels and time of payment differ for denied boarding and delay/ cancellation

Standards of Treatment

- If cancellation/delay within airline's control (irrespective of safety reasons) + delay of departure more than 2 hours:
 - food and drink in reasonable quantities +
 - electronic means of communication (e.g. free wifi) +
 - free accommodation and transfer thereto, if overnight necessary
- Valid also for denied boarding.

Rebooking or Refund

- Large carriers may have to rebook the passenger on another (competing) airline, under special circumstances.
- No such obligation for small carriers.

Tarmac delays

- Up to 3 hours -> no duty to disembark passengers, but offer food and drinks, air condition, lavatories, and communication with outside world if feasible.
- Additional stay at the tarmac up to 45 minutes if take-off likely within that period.
- No further extension allowed, unless imposed for reasons of safety, security, ATC or customs.

Lost or damaged baggage

- Extension of MC99 rules to domestic air travel.
- Compensation includes baggage fees paid.

Information duties of carriers

Before disruption

- provide passengers with information on key terms and conditions of carriage on all digital platforms they use to sell tickets, and on all itinerary-related documents.
- include a written notice with prescribed text regarding standards of treatment and compensation under the APPR, which also directs passengers to the carrier or the website of the Canadian Transportation Agency CTA's.
- for flights to and from Canada: carriers must post the written notice at certain key locations in the airport.

Information duties of carriers

During disruption

- Notify passengers ASAP and provide regular status updates every 30 minutes.
- Advise passengers on their rights in such cases through: (a) audible announcement, (b) visible announcement, upon request; (c) the available communication method the passenger has selected (e.g., email, SMS).
- All electronic or digital communication must be accessible to persons with disabilities using adaptive technology.

Enforcement

- Administrative penalties of up to CAD 25 000 per incident for non-compliance.
- Complaint to CTA, if direct resolution between carrier and passenger unsuccessful.
- Fines imposed for non-displaying information about passenger rights. Airlines have stated that they will appeal the fines.
- Legal challenge against the Regulations pending.

Thank you for your attention!

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