EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of the rights and entitlements set out in Council Regulation (EC) No. 1107/2006 (OJ No. L 204, 26.7.2006) ("the EC Regulation"), which concerns the rights of disabled persons and persons with reduced mobility when travelling by air.

With the exception of *regulation 10* which comes into force on 1 October 2007, the Regulations come into force in two stages to reflect the fact that the EC Regulation has effect from 26th July 2008, except for Articles 3 and 4, which apply from 26th July 2007. Insofar as the Regulations relate to purposes connected with Articles 3 and 4 or deal with designation of enforcement and complaints bodies, they come into force on 26th July 2007.

Regulation 3 provides offences for failure to comply with various obligations set out in the EC Regulation. These obligations fall, respectively, upon air carriers and their agents, tour operators, operating air carriers and managing bodies of airports and the penalties provided by *regulation 4* vary from fines not exceeding level 3 or level 5 on the standard scale on summary conviction, to an unlimited fine on conviction on indictment.

It will be a defence for a person to demonstrate that he took all reasonable steps to ensure compliance with the EC Regulation *(regulation 5)*.

Regulation 6 provides that members and officers of corporate bodies who have contributed to a failure to comply with the EC Regulation shall also be liable to prosecution.

The Regulations designate the Civil Aviation Authority as the body responsible for the enforcement of the EC Regulation and give the CAA rights of access to airports and aircraft in connection with that function. Initially the Disability Rights Commission is designated in Great Britain as the body to receive complaints regarding any alleged breaches of the EC Regulation until the replacement of that body by the Commission for Equality and Human Rights when it comes into being on 1st October 2007. Separate provision is made in respect of the body to receive complaints in Northern Ireland *(regulation 7)*.

Regulation 8 amends section 19 of the Disability Discrimination Act 1995 which makes it unlawful for a provider of services to discriminate against a disabled person in relation to goods, facilities and services. This regulation inserts a provision to disapply section 19(1) in relation to anything governed by the EC Regulation. This is to ensure that there is no duplication where there would otherwise be an overlap between the EC Regulation and the Act.

Regulation 9 enables persons who have suffered an infringement of their rights under the EC Regulation to seek compensation separately from any penal sanction that may be imposed. A claim for compensation must be brought within six months of the infringement complained of.

Regulation 10 amends section 27 of the Equality Act 2006 to enable the Commission for Equality and Human Rights to offer a conciliation service in relation to a claim made under regulation 9.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector has been produced and a copy placed in the library of both Houses of Parliament. Copies may be obtained from the Department for Transport, 76 Marsham Street, London SW1P 4DR. Alternatively copies can be obtained from the Department for Transport's website which is at www.dft.gov.uk. The regulatory impact assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.