

Regulation (EC) No 392/2009 of the European Parliament and
of the Council of 23 April 2009 on the liability of carriers of
passengers by sea in the event of accidents (Text with EEA relevance)

Article 1

Subject matter

- 1 This Regulation lays down the Community regime relating to liability and insurance for the carriage of passengers by sea as set out in the relevant provisions of:
- a the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 2002 (the Athens Convention) as set out in Annex I; and
 - b the IMO Reservation and Guidelines for Implementation of the Athens Convention adopted by the Legal Committee of the IMO on 19 October 2006 (the IMO Guidelines) as set out in Annex II.
- 2 Furthermore, this Regulation extends the application of those provisions to carriage of passengers by sea within a single Member State on board ships of Classes A and B under Article 4 of Directive 98/18/EC, and lays down certain supplementary requirements.
- 3 No later than 30 June 2013, the Commission shall, if appropriate, present a legislative proposal in order, inter alia, to extend the scope of this Regulation to ships of Classes C and D under Article 4 of Directive 98/18/EC.

Article 2

Scope

This Regulation shall apply to any international carriage within the meaning of point 9 of Article 1 of the Athens Convention and to carriage by sea within a single Member State on board ships of Classes A and B under Article 4 of Directive 98/18/EC, where:

- (a) the ship is flying the flag of or is registered in a Member State;
- (b) the contract of carriage has been made in a Member State; or
- (c) the place of departure or destination, according to the contract of carriage, is in a Member State.

Member States may apply this Regulation to all domestic sea-going voyages.

Article 3

Liability and insurance

- 1 The liability regime in respect of passengers, their luggage and their vehicles and the rules on insurance or other financial security shall be governed by this Regulation, by Articles 1 and *1bis*, Article 2(2), Articles 3 to 16 and Articles 18, 20 and 21 of the Athens Convention set out in Annex I and by the provisions of the IMO Guidelines set out in Annex II.
- 2 The IMO Guidelines as set out in Annex II shall be binding.

Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 392/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Article 4

Compensation in respect of mobility equipment or other specific equipment

In the event of loss of, or damage to, mobility equipment or other specific equipment used by a passenger with reduced mobility, the liability of the carrier shall be governed by Article 3(3) of the Athens Convention. The compensation shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.

Article 5

Global limitation of liability

1 This Regulation shall not modify the rights or duties of the carrier or performing carrier under national legislation implementing the International Convention on Limitation of Liability for Maritime Claims, 1976, as amended by the Protocol of 1996, including any future amendment thereto.

In the absence of any such applicable national legislation, the liability of the carrier or performing carrier shall be governed only by Article 3 of this Regulation.

2 In respect of claims for loss of life or personal injury to a passenger caused by any of the risks referred to in paragraph 2.2 of the IMO Guidelines the carrier and the performing carrier may limit their liability pursuant to the provisions referred to in paragraph 1 of this Article.

Article 6

Advance payment

1 Where the death of, or personal injury to, a passenger is caused by a shipping incident, the carrier who actually performed the whole or a part of the carriage when the shipping incident occurred shall make an advance payment sufficient to cover immediate economic needs on a basis proportionate to the damage suffered within 15 days of the identification of the person entitled to damages. In the event of the death, the payment shall not be less than EUR 21 000.

This provision shall also apply where the carrier is established within the Community.

2 An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of this Regulation. It shall not be refundable, except in the cases set out in Article 3(1) or Article 6 of the Athens Convention or Appendix A to the IMO Guidelines, or where the person who received it is not the person entitled to damages.

Article 7

Information to passengers

Without prejudice to the obligations of tour operators set out in Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours⁽¹⁾, the carrier and/or performing carrier shall ensure that passengers are provided

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with appropriate and comprehensible information regarding their rights under this Regulation.

Where the contract of carriage is made in a Member State, that information shall be provided at all points of sale, including sale by telephone and via the Internet. Where the place of departure is in a Member State, that information shall be provided prior to departure. In all other cases, it shall be provided at the latest on departure. To the extent that the information required under this Article has been provided by either the carrier or the performing carrier, the other shall not be obliged to provide it. The information shall be provided in the most appropriate format.

In order to comply with the information requirement under this Article, the carrier and performing carrier shall provide passengers with at least the information contained in a summary of the provisions of this Regulation prepared by the Commission and made public.

Article 8

Reporting

No later than three years after the date of application of this Regulation, the Commission shall draw up a report on the application of this Regulation, which shall, inter alia, take into account economic developments and developments in international fora.

That report may be accompanied by a proposal for amendment of this Regulation, or by a proposal for a submission to be made by the Community before the relevant international fora.

^{F1}Article 9

Amendment of the Annexes

1 The Commission is empowered to adopt delegated acts in accordance with Article 9a amending Annex I to this Regulation in order to incorporate the amendments to the limits set out in Article 3(1), Article 4bis(1), Article 7(1) and Article 8 of the Athens Convention to take account of decisions taken pursuant to Article 23 of that Convention.

The Commission is empowered to adopt, by 31 December 2016, on the basis of a suitable impact assessment, delegated acts in accordance with Article 9a amending the limits set out in Annex I to this Regulation for ships of Class B under Article 4 of Directive 2009/45/EC of the European Parliament and of the Council⁽²⁾, taking into consideration the consequences for fares and the ability of the market to obtain affordable insurance coverage at the level required against the policy background of strengthening passengers' rights, as well as the seasonal nature of some of the traffic.

2 The Commission is empowered to adopt delegated acts in accordance with Article 9a amending Annex II in order to incorporate amendments to the provisions of the IMO Guidelines.]

Textual Amendments

F1 Substituted by [Regulation \(EU\) 2019/1243 of the European Parliament and of the Council of 20 June 2019](#) adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny

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to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

[^{F2}Article 9a

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 9(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 9(1) and (2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽³⁾.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 9(1) and (2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]

Textual Amendments

- F2** Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

^{F3}Article 10

[^{F3}Committee procedure]

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Textual Amendments

- F3** Deleted by [Regulation \(EU\) 2019/1243](#) of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

Article 11

Transitional provisions

1 In respect of carriage by sea within a single Member State on board ships of Class A under Article 4 of Directive 98/18/EC, Member States may choose to defer application of this Regulation until four years after the date of its application.

2 In respect of carriage by sea within a single Member State on board ships of Class B under Article 4 of Directive 98/18/EC, Member States may choose to defer application of this Regulation until 31 December 2018.

Article 12

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from the date of the entry into force of the Athens Convention for the Community, and in any case from no later than 31 December 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) OJ L 158, 23.6.1990, p. 59.
- (2) [^{F1}Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships OJ L 163, 25.6.2009, p. 1.]
- (3) [^{F2}OJ L 123, 12.5.2016, p. 1.]

Textual Amendments

- F1** Substituted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).
- F2** Inserted by Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (Text with EEA relevance).

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Changes and effects yet to be applied to :

- Art. 1(1) word omitted by S.I. 2019/649 reg. 6(2)(a)(i)
- Art. 1(2) words substituted by S.I. 2019/649 reg. 6(2)(b)
- Art. 1(3) omitted by S.I. 2019/649 reg. 6(2)(c)
- Art. 2 words omitted by S.I. 2019/649 reg. 6(3)(c)
- Art. 2 words substituted by S.I. 2019/649 reg. 6(3)(a)
- Art. 3(1) words omitted by S.I. 2019/649 reg. 6(4)
- Art. 6(1) word substituted by S.I. 2019/649 reg. 6(5)(a)
- Art. 6(1) words substituted by S.I. 2019/649 reg. 6(5)(b)
- Art. 7 words omitted by S.I. 2019/649 reg. 6(6)(a)
- Art. 7 words omitted by S.I. 2019/649 reg. 6(6)(c)
- Art. 7 words substituted by S.I. 2019/649 reg. 6(6)(b)
- Art. 8 omitted by S.I. 2019/649 reg. 6(7)
- Art. 9(1) words omitted by S.I. 2019/649 reg. 6(8)(a)(ii)
- Art. 9(1) words omitted by S.I. 2019/649 reg. 6(8)(a)(iii)
- Art. 9(1) words substituted by S.I. 2019/649 reg. 6(8)(a)(i)
- Art. 9(2) words omitted by S.I. 2019/649 reg. 6(8)(b)(ii)
- Art. 9(2) words substituted by S.I. 2019/649 reg. 6(8)(b)(i)
- Art. 10 heading substituted by S.I. 2019/649 reg. 6(9)(a)
- Art. 10(1) substituted by S.I. 2019/649 reg. 6(9)(b)
- Art. 10(2) substituted by S.I. 2019/649 reg. 6(9)(c)
- Art. 11 omitted by S.I. 2019/649 reg. 6(10)
- Art. 12 omitted by S.I. 2019/649 reg. 6(10)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Annex 1 omitted by S.I. 2019/649 reg. 6(11)
- Art. 1(1)(a) words substituted by S.I. 2019/649 reg. 6(2)(a)(ii)
- Art. 2(a) words substituted by S.I. 2019/649 reg. 6(3)(b)
- Art. 2(b) words substituted by S.I. 2019/649 reg. 6(3)(b)
- Art. 2(c) words substituted by S.I. 2019/649 reg. 6(3)(b)