

Shipping & Transport - Cyprus

Applying the EU Passenger Liability Regulation in Cyprus

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The Department of Merchant Shipping recently announced how aspects of the EU Passenger Liability Regulation (392/2009) will be applied within Cyprus and to Cyprus-flagged ships. The regulation entered into force on December 31 2012 and is directly applicable throughout the European Union.

It establishes a regime relating to liability and insurance for the carriage of passengers by sea, based on:

- the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by the International Maritime Organisation Protocol 2002 (read and interpreted together as the 2002 Athens Convention); and
- the International Maritime Organisation (IMO) Reservation and Guidelines for Implementation of the Athens Convention adopted by the IMO Legal Committee on October 19 2006.

The regulation applies to any international carriage where one or more of the following conditions is met:

- The ship is flying the flag of, or is registered in, an EU/EEA member state.
- The contract of carriage was made in an EU/EEA member state.
- The place of departure or destination, according to the contract of carriage, is in an EU/EEA member state.

Operators of ships licensed to carry more than 12 passengers are required to maintain compulsory insurance or other financial security of not less than 250,000 special drawing rights (approximately €289,000) per passenger per incident to cover liability under the 2002 Athens Convention, in respect of death of and personal injury to passengers. Ships must be issued with a state certificate from their flag state confirming that insurance or other financial security is in force.

The definition of 'passenger' in Article 1 of the convention encompasses anyone who is carried on a ship under a contract of carriage or who (with the consent of the carrier) is accompanying a vehicle or live animals that are covered by a contract of carriage of goods not governed by the 2002 Athens Convention. This definition also encompasses the drivers of vehicles carried on board roll-on/roll-off cargo vessels; consequently, the Cyprus authorities consider that cargo vessels which carry more than 12 such persons will also be subject to the 2002 Athens Convention and the regulation. Such vessels must therefore have the necessary compulsory insurance in place and submit evidence of insurance cover in order to obtain the requisite state certificate of insurance from the Cyprus authorities.

The regulation also applies to carriage by sea within a single member state on board ships of Classes A and B under Article 4 of the EU Directive on Safety Rules and Standards for Passenger Ships (98/18/EC). However, member states are given the option to defer application of the regulation until December 31 2016 with respect to Class A ships and until December 31 2018 with respect to Class B ships. The Cyprus authorities have announced that they intend to exercise this option and have given details of how the deferment will operate in practice.

The deferment under Article 11 of the regulation applies to all domestic seagoing voyages performed within Cyprus by Class A and B ships of all nationalities. Nevertheless, in the case of an EU or EEA ship performing domestic voyages within Cyprus whose flag state has not exercised the option to defer under Article 11 of the regulation, for that specific vessel there will be no deferment and the regulation will apply to the vessel as of December 31 2012.

Furthermore, where a Cyprus ship is engaged in domestic seagoing voyages within another EU or EEA member state, if the member state concerned has not exercised the option to defer, then for that specific Cyprus ship there will be no deferment and the regulation will apply to the vessel concerned as of December 31 2012.

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