

Types and Categories of Flight Disruption: A Guide

I. Purpose

This is a guide explaining the types and categories of flight disruption included in the *Air Passenger Protection Regulations*. These apply to flights to, from and within Canada, including connecting flights. In particular, it explains that the causes of flight disruption fall into three categories:

- situations within the carrier's control;
- situations within the carrier's control but required for safety; and
- situations outside the carrier's control.

It is important that passengers and airlines understand these different categories, because they determine what obligations airlines have towards passengers affected by flight disruptions. This guide therefore describes different disruption situations and which category they fall into. The guide also discusses [considerations](#) when determining the category into which a disruption falls.

This information is meant to help passengers and airlines understand how the Canadian Transportation Agency (Agency) would apply, in practice, the law and regulations related to flight disruption. It should help passengers and airlines understand what issues the Agency would consider, and what decision it might make, if someone affected by a disruption brought a complaint against an airline.

The guide describes airlines' minimum obligations to passengers. These must be reflected in airlines' tariffs. Airlines' terms and conditions may always offer passengers terms that go beyond the minimum requirements. In addition, a passenger travelling internationally may avail themselves of the [Montreal or Warsaw Convention](#) provisions on carrier liability when a passenger is delayed.

Provisions on flight disruption categories can be found in the [Canada Transportation Act, section 86.11\(1\)](#) and the [Air Passenger Protection Regulations](#). Annex A highlights key provisions in this area.

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| In case of differences between this guide and the legislation or regulations, the legislation and regulations prevail. |
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II. Types of flight disruption

In the context of the *Air Passenger Protection Regulations*, "flight disruption" is the collective term for the following events that prevent passengers from completing their itineraries on time:

- Flight and tarmac delays;
- Flight cancellations; and
- Denials of boarding.

III. Airline obligations

Airlines have obligations toward passengers affected by flight disruptions. The obligations described below for delays and cancellations will come into effect on December 15, 2019. There are also specific requirements when a passenger is denied boarding, which are in effect as of July 15, 2019 and are described in *Denied Boarding: A Guide*.

The *Air Transportation Regulations* define a passenger as a person, who uses an air carrier's service by boarding the aircraft pursuant to a valid contract or arrangement. The *Air Passenger Protection Regulations* do not distinguish between passengers that paid for their tickets and those that did not (e.g., those travelling on reward miles).

In the event of a disruption, airlines must always keep passengers informed of their rights and the cause of a flight disruption. Airlines must also help them complete their itineraries (re-booking them on other flights). If the cause of the disruption is within a carrier's control, it has additional obligations. These can include compensating passengers for inconveniencing them, and treating them in accordance with certain standards (including providing them with food and drink).

Here are airlines' obligations depending on the cause of the flight disruption:

- Situations within the carrier's control: keep the passenger informed, meet the standards of treatment, compensate the passenger, and re-book the passenger.
- Situations within the carrier's control but required for safety: keep the passenger informed, meet the standards of treatment, and re-book the passenger.
- Situations outside the carrier's control: keep the passenger informed and re-book the passenger.

The next sections look at each of these categories, and the situations they cover, in more detail.

Recommended practices

- **Communicating with passengers:** Sometimes the pilot or airline crew or staff may not immediately know the precise cause of the disruption. Airlines should provide passengers with the most up-to-date information available at the time, and then provide updates.
- **Documentation:** It is recommended that airlines document the nature of a flight disruption. In any dispute between an airline and a passenger over compensation, for example, for the airline may have to provide proof of the disruption's cause. We also recommend that airlines document the treatment and compensation they provide affected passengers, and what they do to keep passengers informed. This will be important information if any passenger brings forward a complaint in any of these areas.

IV. Disruptions within the carrier's control

This category concerns flights disrupted for reasons that are within the carrier's control, other than safety. Often, these stem from commercial decisions the airline makes. They can also stem from decisions the airline makes in its day-to-day operations, such as how it manages aircraft maintenance and staffing schedules. Any issues found during scheduled maintenance would be considered within the carrier's control. Note that contracted parties that support a carrier's operations, are generally considered to be "within the carrier's control".

Commercial decisions

Flight disruptions caused by the following would generally be within a carrier's control.

- Overbooking flights;
- Consolidating or cancelling flights with low passenger demand; and
- Similar actions aimed at maximizing revenue.

Day-to-day operations

Flight disruptions caused by the following would generally be within a carrier's control.

- Staff and flight crew scheduling and availability;
- Flight preparation activities like aircraft cleaning, baggage loading, and aircraft fueling; and
- Routine or scheduled maintenance, including any subsequent repairs or required activities.

Example:

An aircraft goes for regularly scheduled maintenance, which reveals that a particular engine part must be replaced. Time beyond the scheduled maintenance session is needed to replace the part, resulting in a flight delay or cancellation, as that aircraft cannot yet be put back into service.

This situation would be within the carrier's control. We expect airlines to schedule the time that an aircraft is out of service for routine maintenance appropriately, so that passengers are not affected by last-minute cancellations or delays.

V. Disruptions within the carrier's control but required for safety

In this category, "required for safety" means "required by law to reduce risk to passengers." This generally applies when an airline has to disrupt a flight to ensure the safety of the flight and people on board, for example, in accordance with the *Canadian Aviation Regulations* and standards. Mechanical malfunctions that reduce safety are among the situations captured by this category.

This category does not include disruptions caused by routine maintenance, malfunctions identified during routine maintenance or malfunctions that do not impede the safe operation of the flight (for example, problems with the in-flight entertainment system). We consider these to be within a carrier's control.

Mechanical malfunctions

Airlines must continue to follow all safety requirements, including aircraft maintenance and record-keeping requirements. However, it is recognized that not all mechanical malfunctions can be foreseen or prevented through regular maintenance. Unexpected aircraft malfunctions may compromise safety and require the airline to:

- delay or cancel flights to be performed with the affected aircraft;
- find a substitute aircraft; or
- reduce the number of seats available on the aircraft.

Flight disruptions caused by these unexpected aircraft malfunctions (not identified in routine maintenance) would be within a carrier's control, but required for safety.

Other

Flight disruptions caused by the following would generally be within a carrier's control, but required for safety.

- Decisions the airline makes based on its Safety Management System; and
- Safety-related decisions pilots in command of an aircraft make at their discretion.

Example:

Just before boarding, a crew member discovers that one of the aircraft seatbelts has broken. Because use of seatbelts is a safety requirement described in the *Canadian Aviation Regulations*, this broken seat could not be used on this flight. If a passenger had to be denied boarding in this case, this would be considered a situation within the carrier's control, but required for safety.

VI. Disruptions outside the carrier's control

This category concerns flight disruptions caused by events over which the carrier does not have control. For example, national or other broad safety and security concerns, medical emergencies, and natural phenomena could cause disruptions beyond the carrier's control.

The following are examples of situations considered to be outside a carrier's control.

Safety and security

- War or political instability;
- Illegal acts or sabotage;
- A manufacturing defect that reduces passenger safety, which is identified by the manufacturer or a competent authority;
- A NOTAM (Notice to Airmen) filed with an aviation authority to alert pilots of potential hazards along a flight route or at a relevant location;
- Official instructions from an official from a state or a law enforcement agency or from a person responsible for airport security (for example, delaying a flight so that they may carry out their duties, or a government order grounding flights); and
- Accidents involving the aircraft, such as collisions (e.g., with a bird, a drone, etc.).

Medical emergencies

- Flight diversions made so that a passenger can receive medical treatment or care.

Natural phenomena

- Weather conditions that make it impossible to safely operate the aircraft (for example, actual or forecasted blizzards, heavy winds, or lightning); and
- Natural disasters that, in the judgment of the airline or pilot in command, make it impossible to safely operate the aircraft (for example, tornados, hurricanes).

Other

- Instructions from air traffic control;
- Airport operational issues; and
- Strikes or other labour disruptions at an essential service provider, like an airport or an air navigation service provider.

There is no exhaustive list of events that could cause flight disruptions beyond a carrier's control. The Agency may need to determine whether a specific situation falls in this category. Airlines should document situations leading to disruptions that they believe fall in this category, including unusual weather events.

VII. Considerations

When considering the causes of flight disruptions, the complex nature of airline operations is recognized. Sometimes, there is no one cause for a disruption, but multiple causes. In other cases, a cause normally found in one category (for example, "within the carrier's control") belongs more fairly in a different category, due to extenuating circumstances such as third-party actions. Below are examples of various issues that can affect a flight disruption's category.

Multiple causes

If a flight is delayed or cancelled due to multiple factors, the primary cause, or the most significant contributing factor, will normally determine the category.

Example

A flight is delayed for four hours because of crew scheduling errors that were fully within the airline's control. Following this initial delay, there is a weather event, which is outside the carrier's control, and this causes a subsequent delay of an hour. In this case, the most significant contributing factor is the first delay. As a result, the five-hour flight delay would likely be considered to be within the carrier's control.

Third-party actions

Third parties contracted by an airline that directly support obligations set out in the airline's tariffs would generally fall into the "within the carrier's control" category. For example, a carrier could not argue that a failure by its gate or baggage handling agents to staff adequately is outside the carrier's control. However, this does not apply to third parties with whom the airline has no contractual agreement, such as government agencies or airport authorities.

Staff shortages and crew duty time

Carriers are responsible for their staff and parties they contract. Therefore, generally speaking, flight disruptions resulting from staff issues would be considered within carriers' control. However, the Agency would take a case-by-case approach to categorizing flights delayed or cancelled for these reasons – particularly when the crew goes over duty time ("times out"). We will consider the following factors, as well as any others that are relevant to the case.

- The location of the aircraft at the time of the flight disruption, which can affect the scheduling of new crew.
- Whether there were events affecting the flight that caused the staffing shortage and whether or not those events were outside the carrier's control. For example, a weather-related delay, a mechanical malfunction, or other factors.

Knock-on effects

It is recognized that aircraft are used in heavy rotation, and may, upon reaching their destination, be swiftly turned around for a return or onward flight. If a flight is significantly delayed, this may directly affect the return or onward flight for which that aircraft must also be used, as a result of the "knock-on effect".

If a flight disruption is caused by events outside the carrier's control or for safety reasons, the "knock-on effect" on subsequent flights using that aircraft would also be considered outside the carrier's control or for safety reasons, provided the airline took all possible measures to prevent or minimize the "knock-on effects". For example, an

airline would be expected to arrange for an alternative aircraft to prevent the knock-on flight disruptions, if possible.

Failure to do so could result in the subsequent flight delays being considered within the carrier's control. In determining whether an airline took all possible measures to prevent or minimize "knock-on effects", the following factors should be considered:

- the remoteness of the location;
- the availability of another aircraft; and
- the duration of knock-on effects.

Examples:

An airline offers a service between two locations over considerable distance, with a number of stops in between. The aircraft encounters an unexpected mechanical malfunction following the first leg of the journey, which will delay departure for several hours for safety reasons. The airline searches for replacement aircraft with the aim of resuming the journey as soon as possible, but there are none available in the vicinity. The delays of the subsequent flights on the itinerary would therefore also be considered "for safety reasons".

An unexpected mechanical malfunction is detected on an aircraft prior to take-off for a flight from Edmonton to Toronto, which results in the aircraft being removed from circulation for 24 hours to be repaired. This delays the flight from Edmonton to Toronto for reasons within the carrier's control but required for safety. The following day, this aircraft was meant to be used for a flight from Toronto to Halifax. In such a case, it is expected the airline would have time to find a replacement aircraft from its fleet at its hub in Toronto for the flight to Halifax. If the Halifax flight were disrupted, it is unlikely the safety-related delay in Edmonton could be cited as the direct cause.

Annex A: Legislative and Regulatory References

Canada Transportation Act:

86.11 (1) The Agency shall, after consulting with the Minister, make regulations in relation to flights to, from and within Canada, including connecting flights,

(b) respecting the carrier's obligations in the case of flight delay, flight cancellation or denial of boarding, including

(i) the minimum standards of treatment of passengers that the carrier is required to meet and the minimum compensation the carrier is required to pay for inconvenience when the delay, cancellation or denial of boarding is within the carrier's control,

(ii) the minimum standards of treatment of passengers that the carrier is required to meet when the delay, cancellation or denial of boarding is within the carrier's control, but is required for safety purposes, including in situations of mechanical malfunctions,

(iii) the carrier's obligation to ensure that passengers complete their itinerary when the delay, cancellation or denial of boarding is due to situations outside the carrier's control, such as natural phenomena and security events, and

(iv) the carrier's obligation to provide timely information and assistance to passengers.

Air Passenger Protection Regulations

Definitions — Part II of Act

1 (1) The following definitions apply in Part II of the Act.

mechanical malfunction means a mechanical problem that reduces the safety of passengers but does not include a problem that is identified further to scheduled maintenance undertaken in compliance with legal requirements. (défaillance mécanique)

required for safety purposes means required by law in order to reduce risk to passenger safety and includes required by safety decisions made within the authority of the pilot of the aircraft or any decision made in accordance with a safety management system as defined in subsection 101.01(1) of the *Canadian Aviation Regulations* but does not include scheduled maintenance in compliance with legal requirements. (nécessaire par souci de sécurité)

Obligations — situations outside carrier's control

10 (1) This section applies to a carrier when there is delay, cancellation or denial of boarding due to situations outside the carrier's control, including but not limited to the following:

- (a) war or political instability;
- (b) illegal acts or sabotage;
- (c) meteorological conditions or natural disasters that make the safe operation of the aircraft impossible;
- (d) instructions from air traffic control;
- (e) a NOTAM, as defined in subsection 101.01(1) of the *Canadian Aviation Regulations*;
- (f) a security threat;
- (g) airport operation issues;
- (h) a medical emergency;
- (i) a collision with wildlife;
- (j) a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider;
- (k) a manufacturing defect in an aircraft that reduces the safety of passengers and that was identified by the manufacturer of the aircraft concerned, or by a competent authority; and
- (l) an order or instruction from an official of a state or a law enforcement agency or from a person responsible for airport security.