

Ministry of Transport Announcement on Protection of Passenger Rights related to Charter Flight Services B.E. 2556

Pursuant to Sections 3(4), 4, 7, and 9 of the Revolutionary Council Declaration No. 58 declared on the 26 January B.E. 2515, the Ministry of Transport has the power related to air navigation activities, and the Minister for Transport may impose any conditions as well as amending, changing, or adding these conditions before granting permission to operate an air commercial business, which is public amenity, if the Minister sees that it is necessary for the safety or peace of the people. Therefore, the Minister for Transport prescribes measures for the protection of passenger rights related to charter flight services to both domestic and international routes in the conditions attached to the Air Operating License (AOL) for all Thai carriers operating non-scheduled services. This applies to both current and future AOL holders. The measures for air operators to adhere to are as follows:

No.1 This Announcement is called “Ministry of Transport Announcement on Protection of Passenger Rights related to Charter Flight Services B.E. 2556.

No.2 This Announcement becomes effective one day after it has been published in the Government Gazette unless there is a guarantee according to No. 5 in which it shall become effective after sixty days from when it has been published in the Government Gazette.

No. 3 In this Announcement:

“Airline” means a holder of an Air Operating License operating non-scheduled services (charter flights).

“Charter Flight” means

(1) An ad hoc charter flight for travel or tourism purposes providing services on domestic or international routes, or according to a charter agreement with the passengers or the tour operators. It does not include an air ambulance/medivac, an own use charter, or a cooperate charter with the servicing period subject to a contract or an agreement, and a scenic flight.

(2) A program charter service operating on domestic or international routes subject to a contract or an agreement with the passengers or the tourism business operators.

“Passenger” means a passenger who uses a charter service either through a contract or agreement with an airline directly, or through a package tour with a tourism business operator.

“Tourism business operator” means a tourism business operator according to the law on tourism and guide. It also means a party to a charter service contract who has paid for the service to the airline.

“Route schedule” means a route schedule according to a charter service contract or a schedule announced by an airline or a tourism business operator.

“Flight change” means an arrangement to have the passengers travel on another flight by the original airline or another flight by a different airline.

“Flight delay” means a flight that operates later than the time specified in a schedule.

“Flight cancellation” means a cancellation of a flight from a schedule by an airline.

“Disabled person” means a disabled person according to the law on promotion and development for the quality of life for disabled persons.

“Committee” means a committee appointed by the Director General of Department of Civil Aviation in order to consider the compensation for passengers or tourism business operators in case of a flight cancellation by an airline.

No. 4 To protect the passengers who use charter flight services on domestic and international routes in case of a flight delay or flight cancellation, and to provide a guarantee to any damages, that may occur from the flight cancellation as per the contract or the charter service agreement, to

passengers or tourism business operators, depending the each case, the airline must do the followings:

- (1) arrange to have a guarantee according to No. 5, and;
- (2) provide protection to the passengers according to the measures prescribed in No. 6, 7, and 9.

No. 5 An airline must submit to the Department of Civil Aviation a letter of bank guarantee with the content using the form attached in this Announcement according to the following conditions:

(1) The value in the letter of bank guarantee must not be less than the value of the whole charter flight service (per trip/outbound – inbound) providing services on that route. If the airline operates on several routes, the value of the letter of bank guarantee must not be less than the value of the whole charter flight service on the farthest route or the longest service flight of that time.

In case the airline has submitted the letter of bank guarantee with the value according to the first paragraph and the airline subsequently operates a charter flight service on a new route with the value of the whole charter service greater than the value of the whole charter service used to calculate the value of the former letter of bank guarantee, the airline must arrange to have the letter of bank guarantee with the greater value to replace the former letter of bank guarantee within 15 days from the date or the expected date of the operation on the new route. Upon receiving the new letter of bank guarantee from the airline, the Department of Civil Aviation is to return the former letter of bank guarantee to the airline within 3 days.

The value in the letter of bank guarantee in all cases must not be less than two hundred thousand Baht and it must not be more than ten million Baht.

- (2) The period of guarantee shall last until the date that the Air Operating License expires.

No. 6 Measures for protection of passengers in case of a flight delay:

(1) In case of a delay for more than 2 hours but less than 6 hours, the airline must do the followings:

(a) provide food and beverages to the passengers, as it sees appropriate, for the period of waiting time to board the aircraft without any charges;

(b) arrange to have any facilities, as it sees appropriate and necessary, for the passengers to use for communication through any means such as telephone, fax, email and so on without any charges;

(2) In case of a delay for more than 6 hours, the airline must facilitate the passengers according to the measures for flight cancellation prescribed in No. 7.

No. 7 Measures for protection in case of flight cancellation, the airline must do the followings:

(1) In case of a flight cancellation 3 days prior to the schedule, the airline must inform the passengers or the tourism business operator, depending on the case, of the flight cancellation as soon as possible, and the airline must provide a full refund of the the airfares and any other related fees or a partial refund for the segment of the trip, which has not been taken on.

(2) In case of a flight cancellation for more than 1 day but less than 3 days prior to the schedule, the airline must inform the passengers or the tourism business operators of the flight cancellation as soon as possible. The airline must offer the passengers or the tourism business operators to choose between:

(a) receiving a full refund of airfares and any other related fees or a partial refund for the segment of the trip, which has not been taken on; or,

(b) changing flights to travel to the destination as soon as possible without any additional charges in any case; however, if the airfares and any other related fees of the new flight are lower than the amount that the passengers have originally paid, the airline must refund the differences to the passengers or the tourism business operators depending on the case.

- (3) In case of a flight cancellation not more than 1 day prior to schedule, or after the schedule

and the passengers have arrived at the airport, the airline must offer the passengers or the tourism business operators, depending on the case, to choose according to (2) together with additional care as follows:

(a) arrange to have food and beverages for the passengers, as the airline sees appropriate, for the waiting time to board the aircraft without any charges;

(b) arrange to have facilities, as the airline sees appropriate and necessary, for the passengers to use for communication through any means such as telephone, fax, email and so on without any charges.

(c) in case of a new flight, which is scheduled to depart more than 1 day later than the original schedule of the former flight, the airline must provide accommodation, as it sees appropriate and necessary, to the passengers at least 1 night together with a means of transport between the airport and the accommodation without any charges.

No. 8 In case of a flight cancellation due to force majeure beyond the control of the airline such as political situations, weather conditions affecting the flight operations, security reasons or any other circumstances that may or might have an impact upon the the safety of the flight operations and the passengers (excluding aircraft maintenance according to required time) as well as a strike or any other act by employees or contractors of an agency related to the provision of services of the airline or that with an impact upon the operations of the airline, such airline must continue to provide protection to the rights of the passengers according to No. 7(1) or No. 7(2) or 7(3) depending on the case. The care according to No. 7(3)(a)(b) and (c) shall accord with the passengers' willingness, and the passengers shall bear the costs themselves.

No. 9 In case of a flight cancellation for any reason or flight delay with any period of waiting time, the airline must provide services and special care, according to the international practices, to passengers under the age of 12 or disabled persons or persons who are unable to take care of themselves without any charges.

No. 10 When there is a situation or when the airline expects that a situation may arise and it will cause a flight delay or cancellation, the airline must inform the Department of Civil Aviation immediately through a means of communication specified by the Department.

No. 11 In case of a flight cancellation and the airline is unable to refund the money to the passengers or the tourism business operators or any differences occurred due to the change of flights according to No. 7(1) or No. 7(2) or No. 7(3), depending on the case, the airline must inform the Department of Civil Aviation and request to use the letter of bank guarantee. The airline shall add up the total amount of money together with related documents and submit them to the Department of Civil Aviation with 7 days from the day of flight cancellation.

When the Department of Civil Aviation receives the request for the use of the letter of bank guarantee and the total amount of money together with related documents from the airline, it shall bring this matter to the Committee in order to consider and examine the related documents and the amount of money to be refunded. The Committee will decide on the matter with 7 days from the day it receives all of the required documents. The Department of Civil Aviation shall order the airline to pay the money in the amount decided by the Committee to the passengers or the tourism business operators, depending on the case, through the bank that issues the letter of bank guarantee within 7 days from the day it receives the order from the Committee.

When there has been an order to pay the money according to paragraph two, in case the former letter of bank guarantee has to be returned, the Department of Civil Aviation shall return such letter to the airline within 3 days from the day the airline makes the full payment, and the airline shall submit

the new letter of bank guarantee with the period of time and the value according to No. 5(1) to the Department of Civil Aviation within 7 days from the day it receives the former letter of bank guarantee.

Announced on 3 July B.E. 2556

Chatchat Sittipan

Minister for Transport

Letter of Bank Guarantee

No. (letter of guarantee)

Bank (name of guarantee bank)

Date Month Year

I (name of the bank including branch name) located at Road
Sub-district District Province submit this letter
of bank guarantee to the Department of Civil Aviation with the following content:

No. 1 As (name of juristic person holding an Air Operating Licence) a holder of an
Air Operating Licence No. expires on wishes to place a bank guarantee in
order to guarantee any damages that may occur from a flight cancellation subject to the agreement
related to charter flight business it has with the passengers/or the tourism business operators/or any
other a party to the charter service contract (depending on the case) who have paid the fees according to
the contract for Baht (in words)

I accept the obligations of being a guarantor (name of juristic person holding an Air Operating
License) to the Department of Civil Aviation in the amount not exceeding Baht
(in words) that is if (name of the juristic person holding an Air Operating Licence)
causes any damages from the flight cancellation and the Department of Civil Aviation orders (name
of the juristic person holding an Air Operating Certificate) to pay the service fees it has received, or
to compensate any other damages (if any) to the passengers/or the tourism business operators/or any
other party to the charter contract (depending on the case). I accept to pay the money immediately
without asking (name of the juristic person holding an Air Operating Certificate) to pay first.

No. 2 I shall not withdraw the guarantee until the Air Operating Licence of (name of the
juristic person holding an Air Certificate Licence) expires or until The guarantee shall
become effective from month year (the day that the holder of the Air
Operating Licence submits the letter of bank guarantee to the Department of Civil Aviation).

To use as evidence I (name of bank including the branch name), in which the name listed
below shall have to power to enter into any contract with binding obligations to to the bank, have
signed and stamped the bank seal (if any) as according to the Memorandum of Association or the Bank
Regulation.

Name Guarantor
(.....)
Position

Name Witness
(.....)

Name Witness
(.....)