This document is intended to assist passengers using ferries and cruises in understanding their rights, in respect compensation in the event of an accident at sea, by providing a summary of Regulation (EU) No 392/2009 which came into force on 31 December 2012.

Summary

EU Regulation 392/2009 incorporates the main provisions of the 1974 Athens Convention (as amended by the Protocol of 2002) relating to the carriage of passengers and their luggage by sea.

The EU Regulation applies to vessels engaged on international journeys by sea provide that:

- the ship is registered in an EU Member State, or
- the contract of carriage has been made in an EU Member State, or
- the place of departure or destination or both, according to the contract of carriage, are in an EU Member State.

The EU Regulation will also apply to certain types of domestic carriage within the UK after 30 December 2016.

The EU Regulation covers liabilities in respect of passengers, their luggage, vehicles and mobility equipment in the event of an accident.

1. The Provision of Information of Passenger Rights

1.1. The carrier shall provide information to the passengers prior to or on departure to the extent this Regulation applies to their carriage.

Where the contract of carriage is made in an EU Member State, passengers must be provided with appropriate and clear information from the carrier regarding their rights. This information should be provided at all points of sale, including 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 should be provided at the latest on departure.

2. Rights of Passengers

2.1. Right to compensation for death or personal injury
• **Shipping incident**
The passenger has a right to compensation from the carrier of up to 250,000 Special Drawing Rights (SDR) in any event; excluding circumstances beyond the carrier's control (i.e. act of war, natural disaster, act of a third party). Compensation can go up to 400,000 SDR unless the carrier proves that the incident was not the fault or neglect of the carrier. An explanation of SDR may be found at the end of this document.

• **Non-shipping incident**
The passenger has a right to compensation from the carrier of up to 400,000 SDR, but only if the passenger proves that the incident was the result of the carrier's fault or neglect.

2.2 Application of Domestic (UK) Rules
The EU Regulation does not apply to the Crown Dependencies (i.e. the Channel Islands and the Isle of Man) or to the Overseas Territories (with the exception of Gibraltar). Nor does it apply to voyages between mainland UK and the Crown Dependencies because such journeys are considered to be neither domestic nor international in nature. Purely domestic journeys (for example, from the UK mainland to Northern Ireland) are outside the scope of the EU Regulation.

However, for domestic sea journeys within the UK, the Channel Islands and the Isle of Man, where there is no intermediate port of call, and where the carriers principal place of business is in the UK, the current national limits of 300,000 units of account will continue to be applied. For other carriers the original limit of 46,666 SDRs under the 1974 Convention will continue to apply. This will be the case until 30 December 2016 when the first existing EU derogation ceases to have affect, after which time domestic journeys, on board certain classes of ships will be treated in the same way as other international journeys.

3. Right to compensation for loss or damage to property

3.1. Right to compensation for loss of or damage to cabin luggage

**Shipping incident**
A passenger has a right to compensation from the carrier of up to 2,250 SDR, unless the carrier proves that the incident was not their fault or neglect.

**Non-shipping incident**
A passenger has a right to compensation from the carrier of up to 2,250 SDR, but only if the passenger proves that the incident was the result of the carrier's fault or neglect.

3.3. Right to compensation for loss of or damage to luggage other than cabin luggage
A passenger has a right to compensation from the carrier of up to 12,700 SDR (vehicles, including luggage carried in or on the vehicle) or 3,375 SDR (other luggage), unless the carrier proves that the incident was not their fault or neglect.

3.4. Right to compensation for loss of or damage to valuables
A passenger has a right to compensation from the carrier of up to 3,375 SDR for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments and works of art, only when these have been deposited with the carrier for safe-keeping.

3.5. Right of a passenger with reduced mobility to compensation for loss of or damage to mobility equipment or other specific equipment
Shipping incident
A passenger has a right to compensation from the carrier corresponding to the replacement value or the repair costs of the equipment concerned, unless the carrier proves that the incident was not their fault or neglect.

3.6. Right of a passenger with reduced mobility to compensation for loss of or damage to mobility equipment or other specific equipment
Non-shipping incident
A passenger has a right to compensation from the carrier corresponding to the replacement value or the repair costs of the equipment concerned, if they prove that the incident was the fault or neglect of the carrier.

3.7. Right to an advance payment in the event of a shipping incident
In case of death or personal injury, a passenger (or other person entitled to damages) has a right to an advance payment to cover immediate needs. The payment shall be calculated on the basis of the damage suffered and shall be made within 15 days. It shall not be less than €21,000 in the event of death.

4. Conditions and exemptions

4.1. Written notice
In case of damage to cabin or other luggage, a passenger must give timely written notice to the carrier. Failure to do so will result in the passenger losing their right to compensation.

In cases of apparent damage, written notice must be given before or at disembarkation for cabin luggage, and before or at re-delivery for other luggage. In cases of non-apparent damage to or loss of luggage, written notice must be given within 15 days from disembarkation or re-delivery (or scheduled re-delivery in the event of loss of the luggage).

4.2. Time limits for exercise of the passenger’s rights
In general, any claim for damages before a court must be made within 2 years. The starting point of this limitation period may differ depending on the nature of the loss.
4.3. Exemptions concerning liability
The liability of the carrier can be reduced if it is proved that the death or personal injury to a passenger, or the loss of or damage to their property was caused or contributed to by the passenger.

The limits on the different amounts for compensation will not apply if it is proved that the damage resulted from something done by the carrier (or employee) with the intent to cause damage or knowing that such damage would probably result.

Note:

SDR means "Special Drawing Rights" for EU Member States - International Monetary Fund. At the time of publication, 1 SDR = £0.97 or €1.18.


Statutory Instrument 2012 No 3152 (The Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012) applies