

74 FR 59017 (November 16, 2009)

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**INFLATION ADJUSTMENTS TO LIABILITY LIMITS GOVERNED BY THE
MONTREAL CONVENTION EFFECTIVE DECEMBER 30, 2009**

NOTICE

This notice provides guidance to U.S. and certain foreign air carriers on inflation adjustments to liability limits of air carriers and foreign air carriers under the Montreal Convention (Convention).¹ The adjustments affect limits on liability for damages for passenger death or injury, delay in passenger's arrival, and the loss, delay or damage to baggage or cargo, increasing those limits by approximately 13 percent and will be effective in December 2009. The U.S. and foreign air carriers affected by these changes to the Convention include those providing international carriage between countries that, like the United States, are parties to the Convention, and all who provide round trip foreign air transportation that originates and terminates in the United States.

The liability limits are those set out in Articles 21 and 22 of the Montreal Convention. Under Article 24 of the Convention, ICAO is to review those limits every five years in light of inflation that has occurred during that period. In a note of June 30, 2009, the Secretary General of ICAO advised parties to the Convention of revisions required pursuant to this review. These revisions are as follows, stated in Special Drawing Rights (SDRs)²: for destruction, loss, damage or delay of cargo 19 per kilogram (currently 17); for destruction, loss, damage, or delay of baggage, per passenger, 1,131 (currently 1,000); for delay in carriage of passengers, 4,694 (currently 4,150); "strict liability" for death or bodily injury to passengers, 113,100 (currently 100,000). The revised amounts reflect inflation between 2003 and 2008 in the countries whose currencies comprise the SDR.

¹ *Convention for the Unification of Certain Rules for International Carriage by Air*, done at Montreal on May 28, 1999.

² The SDR, an international reserve asset, is a defined basket of major currencies periodically reviewed by the International Monetary Fund to reflect the relative importance of the constituent currencies. As of October 28, 2009, the U.S. dollar value of the SDR was \$1.58.

Pursuant to the terms of Article 24, the increased limits will take effect six months following the notice referred to above, or December 30, 2009. Carriers should, therefore, revise their contracts of carriage, tariffs, required notices, and practices to conform to the Convention's requirements. Failure to implement in a timely manner the revised liability limits and required notices would, in the view of the Aviation Enforcement Office, constitute an unfair or deceptive business practice and unfair method of competition in violation of 49 U.S.C. § 41712. This disclosure guidance, it should be noted, also extends to ticket agents and indirect air carriers. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C-70), U.S. Department of Transportation, 1200 New Jersey Ave., SE, Washington, D.C. 20590.

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