Canadian Transportation Agency | Office des transports du Canada

Types and categories of flight disruption: A guide

Canadian Transportation Agency

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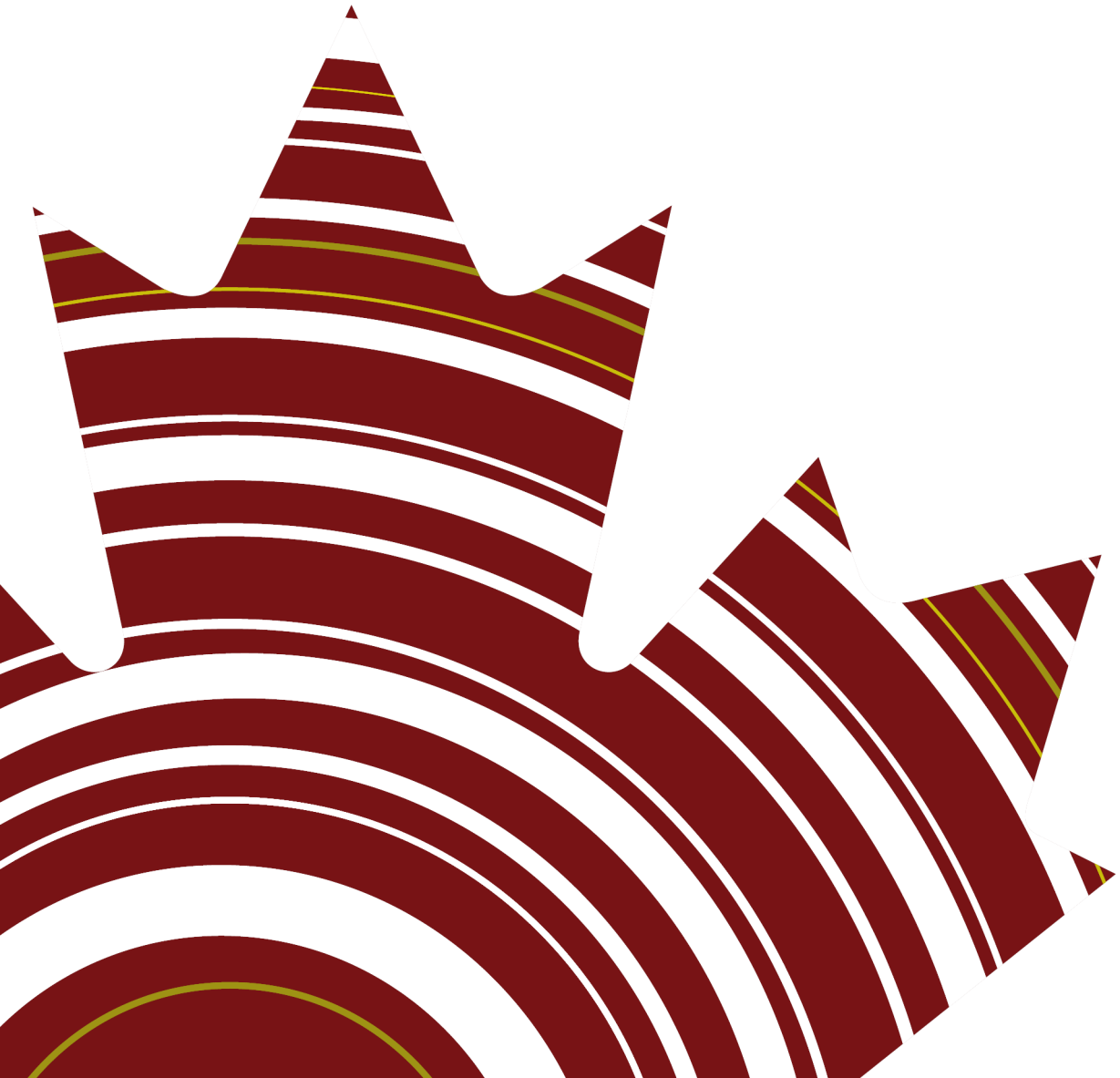

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1. Purpose

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

- situations within the airline's control;
- situations within the airline's control but required for safety; and
- situations outside the airline'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 both airlines and passengers understand what factors the Canadian Transportation Agency (CTA) would consider if a passenger complained to the CTA about a flight disruption.

> This is not a legal document. The explanations and definitions it provides are for general guidance purposes only. Types and categories of flight disruptions can be found in the APPR and Annex A of this guide. In case of differences between this guide and legislation, regulations or CTA decisions, the legislation, regulations and decisions prevail.

2. Types of flight disruption

In the context of the APPR, "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.

3. Airline obligations

Airlines have obligations toward passengers affected by flight disruptions. More information on obligations in the event of flight delays and cancellations can be found in *Flight Delays and Cancellations: A Guide*. There are also specific requirements when a passenger is denied boarding that are described in *Denied Boarding: A Guide*.

The *Air Transportation Regulations* define a passenger as a person, who uses an airline's service by boarding the aircraft pursuant to a valid contract or arrangement. The APPR 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 reason for a flight disruption. It is important for airlines to give passengers the clearest and most up-to-date information available so that they can understand the situation, and then provide updates as more information comes to light or if the situation changes. More information on communication requirements can be found in *Communicating Key Information to Passengers: A Guide*.

Airlines must also help passengers complete their itineraries (re-booking them on other flights). If the reason for the disruption is within an airline's control, it has additional obligations. These can include compensating passengers for inconveniencing them, and providing them with certain kinds of assistance (standards of treatment), (specifically food and drink, access to means of communication and overnight accommodation).

Here are airlines' obligations depending on the reason for the flight disruption:

- Situations within the airline's control: keep the passenger informed, provide assistance, compensate the passenger, and re-book or refund the passenger.
- Situations within the airline's control but required for safety: keep the passenger informed, provide assistance, and re-book or refund the passenger.
- Situations outside the airline'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. To decide which category a flight disruption falls into, an airline must assess the situation based on the APPR requirements and guidance from the CTA. This should be done independently from any other delay categorizing the airline does (for internal purposes or for other reporting).

Tip for passengers

In addition to the minimum compensation for inconvenience described in this guide, a passenger who is delayed while travelling internationally may also be entitled to make a claim under the Montreal or Warsaw Convention for any damages – for example, expenses – that happened because of the delay. It is recommended that passengers first make these claims with the airline in writing. There is a 2-year time limit for any court action to claim damages.

4. Disruptions within the airline's control

This category concerns flights disrupted for reasons that are within the airline'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 airline's control. Note that contracted parties that support an airline's operations, are generally considered to be "within the airline's control".

Commercial decisions

Flight disruptions caused by the following would generally be within an airline'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 an airline'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 airline's control. Airlines are expected to plan around the time that an aircraft is out of service for scheduled maintenance, and also plan for additional time needed to complete any work identified during the scheduled maintenance.

5. Disruptions within the airline'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 an airline'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 an airline's control, but required for safety.

Pre- and post-flight checks

These checks, which are done for all flights, are not considered to be "scheduled maintenance." They are meant to identify any last-minute, unforeseeable issues that could not have been prevented by regular scheduled maintenance. For this reason, flight disruptions due to an issue identified during pre- and post-flight checks are generally considered within the airline's control but required for safety.

However, if the issue did not affect the safe operation of the flight, any related disruption would be within the airline's control. If the issue were caused by a situation outside the airline's control (for example, a collision with wildlife), then the resulting disruption would be considered outside the airline's control.

Other disruptions within the airline's control but required for safety

Flight disruptions caused by the following would generally be within an airline'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.

Examples:

- During a pre-flight check, the pilot identifies an issue with the aircraft's engine that did not come up during scheduled maintenance. The airline cannot use this aircraft until further maintenance is done, which caused it to cancel the flight. This situation would be within the airline's control, but required for safety.
- 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 airline's control, but required for safety.

6. Disruptions outside the airline's control

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

The following are examples of situations generally considered to be outside an airline's control.

Safety and security

- War or political instability;
- Illegal acts or sabotage (including cyber attacks that cause severe disruptions to an airline's network);
- 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 disruptions outside the airline's control

- 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 an airline's control. The CTA 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.

Recommended practices – information to provide the CTA in the event of a complaint

If a passenger brings forward a complaint to the CTA regarding a flight disruption, the CTA will expect certain information from the passenger and the airline.

If a passenger disagrees with how an airline categorized a flight disruption, the CTA will expect them to justify why they disagree. In turn, the airline will be expected to provide evidence demonstrating which category the disruption falls into. For example:

> If the airline had decided a flight disruption was caused by bad weather and was therefore outside its control, they would be expected to provide the CTA with a weather report or similar evidence describing that weather situation.

If the complaint is that the airline did not meet its obligations during a flight disruption, the CTA will also expect airlines to provide documentation showing the assistance and compensation they provided affected passengers, and how they communicated with them.

7. Considerations

When considering the reasons for flight disruptions, the complex nature of airline operations is recognized. Sometimes, there is not one reason for a disruption, but multiple reasons. In other cases, a reason normally found in one category (for example, "within the airline'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 reasons or more than one disrupted flight

A flight disruption can be complex – it can evolve over time and there may be more than one reason. This can make it difficult for an airline to determine and categorize the reason for the disruption. If more than one flight on the passenger's itinerary was disrupted, that may make it difficult to determine the reason a passenger arrived late at their destination and decide if compensation is owed.

The airline must take this three-step approach in making these decisions:

Step 1: Identify what the different reasons were for the disruption(s), the length of delay that each reason caused, and which flight was affected (if there was more than one disrupted flight).

Step 2: Identify the primary reason. The primary reason has the most significant direct contribution to the flight disruption, or to the passenger arriving at their final destination late. Factors that can help identify the primary reason include what caused the longest delay, whether a connection was missed, and whether the different reasons or disruptions are related to one another.

Step 3: Categorize the disruption by determining the category of the primary reason.

Example	Step 1: What are the different reasons, and length of delay for each?	Step 2: Which is the primary reason?	Step 3: What is the category?
One disrupted flight, multiple reasons	**3-hour total delay:** • 1 hour due to airline scheduling error • 2 hours due to de-icing, snow removal and airport capacity issues following a snow storm	**Snow storm:** • It was the cause of the longest period of delay.	Bad weather is outside airline control.
Two disrupted flights	**3-hour total delay at final destination:** • **First flight:** 4-hour weather delay • Passenger still makes connection because second flight is also delayed. • **Second flight:** 3-hour delay because airline chose to consolidate flights.	**Second flight delay:** • It was the only one that directly caused the passenger to arrive at their destination late. • While first flight delay was longer, the passenger was able to make their connection. Even if the first flight had been on time, the passenger still would have arrived three hours late at their destination because of the second delay.	Commercial decision to consolidate flights is within airline 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 airline's control" category. For example, an airline could not argue that a failure by its gate or baggage handling agents to staff adequately is outside the airline'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

Airlines are responsible for their staff and parties they contract. Therefore, generally speaking, flight disruptions resulting from staff issues would be considered within airlines' control.

However, when categorizing a flight disruption caused by a crew shortage, all circumstances surrounding the shortage must be considered, including:

- If there was an event affecting the flight that caused the crew shortage and whether or not that event was within the airline's control, within its control but required for safety or outside its control. For example, a weather-related delay or an illness; and
- Whether the airline had prepared and followed reasonable contingency plans to replace the crew.

Contingency planning

Contingency plans are strategies that help airlines respond effectively when things go wrong.

Even if a situation outside the airline's control contributed to a crew shortage, the disruption may still be considered within the airline's control if the airline didn't follow reasonable contingency plans for scheduling new crew. Airlines must make proper contingency plans no matter their business model (including ultra-low cost airlines).

For example: An airline faces staff shortages when Government vaccination requirements for airline workers come into effect. This airline did not have contingency plans in place to respond to the issue, which means resulting disruptions would likely be considered within its control.

The airline's contingency planning for scheduling replacement crew would be assessed based on the particular circumstances of the flight disruption, including:

- Where the disruption is located:
    - There would be a higher expectation that the airline have replacement crew at busy airports and hubs.
    - It is understood that airlines may have more trouble bringing in replacements at airports where it has limited operations (for example remote or foreign locations).
- Extraordinary situations:
    - For example, bad weather preventing an airline from securing replacement crew, an illness impacting a significant number of crew, or a labour strike making it difficult to find replacements.

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. For example, 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 airline's control or for safety reasons, the "knock-on effect" on subsequent flights – for example, flights using that aircraft or staff on that aircraft – would also be considered outside the airline's control or for safety reasons, provided the airline took all reasonable measures to prevent or minimize the "knock-on effects". For example, an airline would be expected to arrange for an alternative aircraft or substitute staff to prevent the knock-on flight disruptions, if possible.

Failure to do so could result in the subsequent flight delays being considered within the airline's control. In determining whether an airline took all reasonable measures to prevent or minimize "knock-on effects", the circumstances surrounding the knock-on effect must be considered, including the following factors, among others:

- **Duration of the knock-on effect**
  How quickly an airline can recover from a disruption and its knock-on effect would depend on the particular circumstances. Some knock-on effects may just impact the next flight meant to use the aircraft or crew, but in other situations, the knock-on effect may affect later flights as well. However, for these longer knock-on effects, airlines will be expected to provide reliable evidence to show that the airline took all reasonable measures to minimize the impacts.

- **The location and the availability of another aircraft or crew**
  Location impacts an airline's ability to prevent or minimize the impacts of knock-on effects. Airlines are not expected to have replacement aircraft and crew available at all airports. As noted above, there would be a higher expectation that the airline have replacement aircraft and crew at busy airports and hubs, and it is understood that airlines may have more trouble bringing in replacements where they have more limited operations (for example, remote or foreign locations).

- **How significant the impact of the flight disruption is**
  Airlines are expected to recover more quickly from the knock-on effects of a disruption affecting a single flight (for example, a mechanical malfunction), compared to an event with broader impacts on multiple flights. For example:

    - Significant weather delays;
    - A major health crisis such as the COVID-19 pandemic;
    - War or political instability;
    - An accident at an airport, or other airport operations issues; and
    - Major network outages or systems failures outside the carrier’s control.

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 airline'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.

Computer issue or network outages

Airlines are responsible for their own computer systems and networks and those of certain third parties, such as contractors. Because computer issues and network outages are part of day-to-day operations, airlines are expected to anticipate and plan for them, including taking reasonable cybersecurity precautions.

Categorizing a flight disruption caused by a computer issue or network outage will depend on the surrounding circumstances, including the following factors, among others:

- **Does the airline control the system?**
  Airlines have control over their own systems and could be considered to have control over the systems of third parties that they do business with (for example, an online reservation system operated by an IT contractor). However, the airlines may have limited control over the networks of other third parties, such as airports.

- **If the airline has control, were reasonable steps taken to prevent the issue?**
  The system must be properly maintained and reasonable cybersecurity precautions must be taken.

- **Did the airline follow contingency plans?**
  In the event of a computer or network issue, airlines are expected to follow reasonable contingency plans to respond to the event. This could include putting in place alternative processes (like more staff to help over the phone and in person), or taking steps to repair the issue or restart the network.

- **Was the issue caused by a cyberattack?**
  Cyberattacks are illegal acts and so are considered outside the airline's control. But even in the event of a cyberattack, airlines would be expected to have taken measures to prevent the issue and to have followed contingency plans as noted above.

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.