

*Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

# **EXITING THE EUROPEAN UNION CIVIL AVIATION COMPETITION**

## **The Air Services (Competition) (Amendment) (EU Exit) Regulations 2019**

*Made - - - -*

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*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

## **PART 1**

### **Introduction**

#### **Citation and commencement**

**1.** These Regulations may be cited as the Air Services (Competition) (Amendment) (EU Exit) Regulations 2019 and they come into force on exit day.

## PART 2

### Amendment of retained direct EU legislation

#### Amendment of Regulation (EC) No 868/2004

2.—(1) Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community is amended as follows.

(2) In Article 1 (objective)—

(a) in paragraph 1—

(i) for “not members of the European Community”, substitute “other than the United Kingdom”; and

(ii) for “Community”, in the second place where it occurs, substitute “United Kingdom”;

(b) in paragraph 2, for “Member States” to the end, substitute “the United Kingdom and countries other than the United Kingdom.”;

(c) in paragraph 3, for “Community” to the end, substitute “United Kingdom and countries other than the United Kingdom.”.

(3) In Article 2 (principles)—

(a) in paragraph 1, for “non-Community”, substitute “non-United Kingdom”;

(b) in paragraph 2—

(i) for “non-Community”, substitute “non-United Kingdom”;

(ii) for “Community”, in both remaining places where it occurs, substitute “United Kingdom”.

(4) In Article 3 (definitions)—

(a) for “Community”, in each place where it occurs, substitute “United Kingdom”;

(b) in paragraph (c), for “a Member State”, substitute “the United Kingdom”;

(c) at the end of paragraph (d), insert “;”;

(d) after paragraph (d), insert—

“(e) “the CAA” means “the Civil Aviation Authority”;

(f) “Official Record” means a document of that name published on the website of the CAA.”.

(5) In Article 4 (subsidisation), in paragraph 1(a), for “not a member of the European Community”, substitute “other than the United Kingdom”.

(6) In Article 5 (unfair pricing practices)—

(a) in paragraph 1—

(i) after “from the”, for “Community”, substitute “United Kingdom”;

(ii) for “non-Community”, substitute “non-United Kingdom”;

(iii) after “competing”, for “Community”, substitute “United Kingdom”;

(b) in paragraph 2(e), for “non-Community”, substitute “non-United Kingdom”;

(c) in paragraph 3—

(i) for “The Commission”, substitute “The CAA”;

(ii) omit the final sentence.

(7) In Article 6 (determination of injury), for “Community”, in each place where it occurs, substitute “United Kingdom”.

(8) In Article 7 (initiation of proceedings)—

(a) in paragraph 1—

(i) for “Community”, substitute “United Kingdom”;

(ii) for “Commission’s”, substitute “CAA’s”;

(b) for paragraph 2, substitute—

“2. When it is apparent that there is sufficient evidence to initiate a proceeding, the CAA shall initiate the proceeding within 45 days of the lodging of the complaint and shall publish a notice in its Official Record. Where the issue in question is being discussed within the framework of a bilateral agreement by the United Kingdom government, this 45-day deadline shall, at the request of the Secretary of State, be extended for up to 30 days. Any additional extension to the deadline shall be decided upon by the CAA.

Where insufficient evidence has been presented, the CAA shall inform the complainant within 45 days of the date on which the complaint was lodged.”;

(c) in paragraph 3, for “the Commission”, substitute “the CAA”;

(d) in paragraph 4, for “The Commission”, substitute “The CAA”;

(e) in paragraph 5—

(i) for “The Commission”, the first time it occurs, substitute “The CAA”;

(ii) for “the third-country government”, substitute “the government of the other country”;

(iii) omit from “Where appropriate” to the end.

(9) In Article 8 (the investigation), in paragraph 1—

(a) for “the Commission”, substitute “the CAA”;

(b) for “non-Community”, substitute “non-United Kingdom”;

(c) for “third country government”, substitute “government of the other country”;

(d) after “which is in the”, for “Community”, substitute “United Kingdom”.

(10) In Article 9 (redressive measures), for “non-Community”, substitute “non-United Kingdom”.

(11) In Article 10 (provisional measures)—

(a) in paragraph 1—

(i) for “non-Community”, substitute “non-United Kingdom”;

(ii) for “Community”, in both remaining places where it occurs, substitute “United Kingdom”;

(b) in paragraph 2—

(i) omit “Provisional measures may be taken in accordance with the procedure referred to in Article 15(2).”;

(ii) for “Those”, substitute “Provisional”.

(12) In Article 11 (termination without measures)—

(a) in paragraph 1—

(i) for “a Member State’s air service agreement with the third country”, substitute “an air service agreement between the United Kingdom and the other country”;