

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

EXITING THE EUROPEAN UNION CIVIL AVIATION

The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2018

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾, section 2(2) of the European Communities Act 1972⁽²⁾ and section 71 of the Civil Aviation Act 1982⁽³⁾.

The Secretary of State is a Minister designated⁽⁴⁾ for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to air transport.

In accordance with section 71(2) of the Civil Aviation Act 1982, the Secretary of State has consulted with the Civil Aviation Authority before making these Regulations.

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972 a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

(1) 2018 c. 16.

(2) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of the European Union (Amendment) Act 2008 (c. 7).

(3) 1982 c. 16. Section 71 was amended by section 94 of the Civil Aviation Act 2012 (c. 19) and section 1 of the Air Travel Organisers' Licensing Act 2017 (c. 33).

(4) S.I. 1993/2661, to which there are amendments not relevant to these Regulations.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2018 and come into force in accordance with paragraphs (2) and (3).

(2) This regulation and regulation 5(1) and (2) come into force 22 days after the day on which these Regulations are made.

(3) Regulations 2 to 4, 5(3) and 6 to 9 come into force on exit day.

PART 2

Amendment of primary legislation

Amendment of the Carriage by Air Act 1961

2.—(1) The Carriage by Air Act 1961(5) is amended as follows.

(2) In section 1(2) (Convention to have force of law), for “Community air carriers” substitute “UK air carriers”.

(3) In section 14(2) (interpretation)—

(a) omit the definition of “Community air carrier” (including the “and” at the end of it);

(b) at the end of the definition of “court”, insert—

“; and

“UK air carrier” has the meaning given by Article 2 of the Council Regulation”.

PART 3

Amendment of secondary legislation

Amendment of the Air Carrier Liability Regulations 2004

3.—(1) The Air Carrier Liability Regulations 2004(6) are amended as follows.

(2) For regulation 2 (interpretation) substitute—

“2. In these Regulations—

“the Council Regulation” means Council Regulation (EC) No 2027/97 as amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council;

“UK air carrier” has the meaning given by Article 2 of the Council Regulation.”.

(3) In regulation 3 (enforcement of Articles 3a and 6 of the Council Regulation), in paragraph (1), for “Community air carrier” substitute “UK air carrier”.

(5) 1961 c. 27. Sections 1 and 14(2) were substituted by S.I. 2002/263 and section 14(2) was subsequently amended by S.I. 2004/1418; there are other amending instruments but none is relevant.

(6) S.I. 2004/1418, to which there are amendments not relevant to these Regulations.

Amendment of the Carriage by Air Acts (Application of Provisions) Order 2004

4.—(1) The Carriage by Air Acts (Application of Provisions) Order 2004(7) is amended as follows.

(2) In article 2 (interpretation)—

- (a) omit the definition of “Community air carrier”;
- (b) omit the word “and” immediately following the definition of “the MP4 Convention”;
- (c) at the end of the definition of “the Montreal Convention” insert—
“; and
“UK air carrier” has the meaning given by Article 2 of the Council Regulation”.

(3) In article 3 (application), in paragraph (2), for “Community air carriers” substitute “UK air carriers”.

Amendment of the Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005

5.—(1) The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005(8) are amended as follows.

(2) In regulation 3 (offences) for paragraph (1), substitute—

“(1) An operating air carrier is guilty of an offence if, in the United Kingdom or elsewhere, it fails to comply with an obligation imposed on it by Article 4, 5, 6, 10, 11 or 14 in respect of a passenger whose flight is either from—

- (a) an airport in the United Kingdom, or
- (b) a country which is not an EEA state to such an airport.”.

(3) In regulation 3 (offences), in paragraph (1) as substituted by regulation 5(2) of these Regulations, omit the words from “in respect of” to the end.

Amendment of the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012

6.—(1) The Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012(9) are amended as follows.

(2) In regulation 4 (interpretation), in paragraph (1), in the definition of “travel service”, for paragraph (c)(ii) and (iii) substitute—

- “(ii) other motor vehicles within the meaning of regulation 4(1) of the Road Vehicles (Approval) Regulations 2009(10); or
- (iii) motorcycles requiring a Category A driving licence in accordance with Part 1 of Schedule 2 to the Motor Vehicles (Driving Licences) Regulations 1999(11);”.

(3) In regulation 9 (who may make available flight accommodation), omit paragraph (2).

(4) In regulation 9A (procuring flight accommodation as agent for the consumer), omit paragraphs (3) and (4).

(5) In regulation 9B (facilitating the making available of flight accommodation by another person), omit paragraphs (4) and (5).

(7) [S.I. 2004/1899](#), amended by [S.I. 2004/1974](#).

(8) [S.I. 2005/975](#).

(9) [S.I. 2012/1017](#), amended by [S.I. 2012/1134](#) and [2018/670](#).

(10) [S.I. 2009/717](#), amended by [S.I. 2018/236](#); there are other amending instruments but none is relevant.

(11) [S.I. 1999/2864](#), amended by [S.I. 2012/977](#); there are other amending instruments but none is relevant.

- (6) In regulation 10(1) (persons exempt from requirement to hold an ATOL), omit sub-paragraphs (d) and (j).

PART 4

Amendment of retained direct EU legislation

Amendment of Council Regulation (EC) No 2027/97

7.—(1) Council Regulation (EC) No 2027/97 of the Council of 9 October 1997 on air carrier liability in respect of the carriage of passengers and their baggage by air⁽¹²⁾ is amended as follows.

- (2) In Article 1, for “a single Member State” substitute “the United Kingdom”.
- (3) In Article 2, in paragraph 1, for point (b) substitute—
 - “(b) “UK air carrier” means an air carrier with a valid operating licence granted by the Civil Aviation Authority in accordance with Chapter II of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the United Kingdom;”.
- (4) In Article 3—
 - (a) in paragraph 1, for “Community air carrier” substitute “UK air carrier”;
 - (b) omit paragraph 2.
- (5) In Article 3a, for “Community air carrier” substitute “UK air carrier”.
- (6) In Article 5—
 - (a) in paragraphs 1 and 3, for “Community air carrier” substitute “UK air carrier”;
 - (b) in paragraph 2, for “euro” substitute “sterling”.
- (7) In Article 6—
 - (a) in paragraph 1—
 - (i) for “Community”, in the first place it occurs, substitute “United Kingdom”; and
 - (ii) for “Community air carriers” substitute “UK air carriers”;
 - (b) in paragraph 2, for “Community” substitute “United Kingdom”;
 - (c) in paragraph 3—
 - (i) for “Community air carriers” substitute “UK air carriers”;
 - (ii) for “Community air carrier” substitute “UK air carrier”;
 - (iii) for “non-Community air carriers” substitute “non-UK air carriers”; and
 - (iv) for “within the Community” substitute “within the United Kingdom”.
- (8) Omit Article 7 and the second paragraph of Article 8.
- (9) In the Annex—
 - (a) in the first paragraph (air carrier liability for passengers and their baggage), for “Community air carriers” to the end, substitute “UK air carriers”;
 - (b) in the eleventh paragraph (basis for the information)—
 - (i) for “Community” substitute “United Kingdom in respect of UK air carriers”; and
 - (ii) omit “and national legislation of the Member States”.

⁽¹²⁾ As amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents.