

## **EXECUTIVE NOTE**

### **THE HIGHLANDS AND ISLANDS AIR SERVICES (SCOTLAND) ACT 1980 AMENDMENT REGULATIONS 2011**

**SSI 2011/367**

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to the negative procedure.

#### **Policy Objectives**

The purpose of this instrument is to amend the Highlands and Islands Air Services (Scotland) Act 1980 (“the 1980 Act”), which makes provision for assistance by way of grants or loans in connection with air services serving the Highlands and Islands.

The 1980 Act refers, in its definition of “air services”, to Council Regulation 2408/92 which permitted the exercise of certain traffic rights for air transport services. This Regulation was repealed and replaced by Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community.

It is therefore necessary to amend the 1980 Act so that it now refers to Regulation (EC) No 1008/2008. Since 1st November 2008 (the date on which Regulation 1008/2008 came into force), the only persons who have been assisted by the Scottish Ministers under section 1 of the 1980 Act are persons providing services falling within paragraph (a) of the definition of “air services” in section 3 of that Act. The delay in making the relevant amendment has not therefore had any practical significance.

These Regulations further remove the definition of “EEA Agreement” from section 3 of the 1980 Act. This definition is no longer required since it was linked to the paragraph of the “air services” definition which these Regulations replace.

#### **Negative Procedure**

The Scottish Government usually favours applying the affirmative procedure to an instrument made under section 2(2) of the European Communities Act 1972 which amends primary legislation. However, in this case the change made is very minor and it does not substantially affect the provisions of the 1980 Act. As such the Scottish Government are of the view that the use of the affirmative procedure is not justified and that the negative procedure is sufficient.

#### **Consultation**

The following four local authorities and three airlines are involved with the operation of relevant subsidised air services. They have been informed about the instrument, as has the Civil Aviation Authority which oversees and regulates all aspects of aviation in the United Kingdom.

- Shetland Islands Council
- Orkney Islands Council
- Comhairle nan Eilean Siar
- Argyll and Bute Council
- Loganair Ltd
- Hebridean Air Services
- Directflight

### **Business and Regulatory Impact Assessment**

A Business and Regulatory Impact Assessment has not been carried out as the instrument has no financial effects on the Scottish Government, local government or on business.

Transport Scotland  
Aviation Policy Branch  
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