

*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.*

DRAFT STATUTORY INSTRUMENTS

2019 No. XXXX

**EXITING THE EUROPEAN UNION
CIVIL AVIATION**

**The Airports Slot Allocation
(Amendment) (EU Exit) Regulations 2019**

Made - - - - 2019

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, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

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 Airports Slot Allocation (Amendment) (EU Exit) Regulations 2019 and they come into force on exit day.

PART 2

Amendment of subordinate legislation

Amendment of the Airports Slot Allocation Regulations 2006

2.—(1) The Airports Slot Allocation Regulations 2006(2) are amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “amending regulations”—

(i) omit “and” after paragraph (b);

(ii) at the end insert—

“and

(d) the Airports Slot Allocation (Amendment) (EU Exit) Regulations 2019;”;

(b) in the definition of “council regulation”—

(i) in the first place it occurs, for “Community” substitute “United Kingdom”;

(ii) omit from “and as” to the end;

(c) omit the definition of “EEA Agreement”.

(3) In regulation 8(2) (process of slot allocation), for “within the European Union” substitute “within Europe”.

(4) In regulation 11(1)(b) (slot pool), for “Commission” substitute “Secretary of State”.

(5) In regulation 13(a) (relations with third countries), for “is required to take” substitute “takes”.

PART 3

Amendment of retained direct EU legislation

Amendment of Annex 13 to the EEA Agreement

3. In Annex 13 (transport) to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 so far as that Annex forms part of domestic law by virtue of section 3(2)(b) of the European Union (Withdrawal) Act 2018, omit paragraph 64b.

Amendment of Council Regulation (EEC) No 95/93

4. Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports is amended as follows.

5. In the title for “Community” substitute “United Kingdom”.

6. In Article 1 (scope)—

(a) in paragraph 1, for “Community airports” substitute “airports in the United Kingdom”;

(b) omit paragraphs 2 and 3.

7.—(1) Article 2 (definitions) is amended as follows.

(2) [S.I. 2006/2665](#). Relevant amendments were made by [S.I. 2011/1043](#).

(2) In point (b) (definition of “new entrant”), in point (ii), for “Community airports” substitute “airports in the United Kingdom, or between an airport in the United Kingdom and an airport in an EEA state.”

(3) For point (e) (definition of “Community air carrier”), substitute—

“(e) ‘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) After that point insert—

“(ea) ‘qualifying air carrier’ means:

(i) a UK air carrier, or

(ii) any air carrier eligible to operate services on the route concerned under or by virtue of an agreement between the United Kingdom and another country;”.

8.—(1) Article 3 (conditions for airport coordination) is amended as follows.

(2) In paragraphs 1 and 2, for “A Member State”, in each place it occurs, substitute “The Secretary of State”.

(3) In paragraph 3—

(a) in the first paragraph, for the words from the beginning to “six months:” substitute “Where an airport has no designation status, or is designated as schedules facilitated, a thorough capacity analysis must be carried out when the managing body of the airport considers it necessary, or within six months;”;

(b) in point (ii), for “Commission” substitute “Secretary of State”; and

(c) in the final paragraph, for “Commission” substitute “Secretary of State”.

(4) In paragraph 4, for “Member State” substitute “Secretary of State”.

(5) In paragraph 5, for “the Member State shall ensure that the airport is designated” substitute “the Secretary of State may designate an airport”.

(6) In paragraph 6, for “Member States” substitute “the Secretary of State”.

9.—(1) Article 4 (the schedules facilitator and the coordinator) is amended as follows.

(2) In paragraph 1, for the words from the beginning to “consulted” substitute “Before approving the appointment of a person as schedules facilitator or airport coordinator, the Secretary of State must consult”.

(3) Omit paragraph 2.

(4) In paragraph 3, for “Community law” substitute “the law of the United Kingdom, or of the relevant part of it”.

(5) In paragraph 6, for “Member States concerned and to the Commission” substitute “Secretary of State”.

(6) In paragraph 10, for “Community law” substitute “the law of the United Kingdom, or of the relevant part of it”.

10.—(1) Article 5 (coordination committee) is amended as follows.

(2) In paragraph 1—

(a) in the first paragraph, omit the first sentence;

(b) in point (a)—

- (i) for “Member State” substitute “managing body of the airport”;
- (ii) in the sixth indent, omit “, as provided for in Article 10(9)”;
- (3) In paragraph 2, for “Member State representatives” substitute “The Secretary of State”.
- (4) In paragraph 3, for “Member State concerned” substitute “managing body of the airport”.

11.—(1) Article 6 (coordination parameters) is amended as follows.

(2) In paragraph 1, for the words from the beginning to “taking” substitute “The determination of the parameters for slot allocation at a coordinated airport must take”.

(3) In paragraph 2, for “Member State” substitute “managing body of the airport”.

12. In Article 8(5) (process of slot allocation)—

- (a) for “Community-wide” substitute “within Europe”;
- (b) for “Member State”, in the first place it occurs, substitute “Secretary of State”;
- (c) for “Community law” substitute “the law of the United Kingdom, or of the relevant part of it.”; and
- (d) omit the final sentence.

13. In Article 8b (exclusion of compensation claims)—

- (a) for “Community law, in particular in application of the rules of the Treaty relating to air transport” substitute “the law of the United Kingdom, or of the relevant part of it”; and
- (b) omit “or to Articles 81 or 82 of the Treaty or [Council Regulation \(EEC\) No 4064/89](#) of 21 December 1989 on the control of concentrations between undertakings”.

14.—(1) Article 9 (public service obligations) is amended as follows.

(2) In paragraph 1—

- (a) for “a Member State” substitute “the Secretary of State”;
- (b) for “the Member State concerned does not issue a call for tenders” substitute “a call for tenders is not issued”.

(3) In paragraph 2, for “Community air carrier” substitute “qualifying air carrier”.

15.—(1) Article 10 (slot pool) is amended as follows.

(2) In paragraph 4—

- (a) in point (a), third indent, for “Community airports” substitute “airports in the United Kingdom or EEA states”;
- (b) in point (c) for “Community” substitute “UK”.

(3) Omit paragraph 5.

(4) Omit paragraph 9.

16. In Article 11 (complaints and rights of appeal)—

- (a) in paragraph 1, for “Member State responsible” substitute “Secretary of State”;
- (b) omit paragraph 2.

17.—(1) Article 12 (relations with third countries) is amended as follows.

(2) In the heading, for “third countries” substitute “countries other than the United Kingdom”.

(3) In paragraph 1—

- (a) for “a third country” substitute “a country other than the United Kingdom”;

- (b) in points (a) and (b), for “Community”, in both places it occurs, substitute “UK”;
 - (c) in point (c)—
 - (i) omit “third”, and
 - (ii) for “Community” substitute “UK”;
 - (d) for “the Commission may, in accordance with the procedure referred to in Article 13(2), decide that a Member State or Member States shall” substitute “the Secretary of State may by regulations”;
 - (e) for “that third country” substitute “that country”;
 - (f) for “third country concerned” substitute “country concerned”.
- (4) Omit paragraph 2.
- 18.** For Article 13 (committee procedure) substitute—

“Article 13

Regulations

1. The power to make regulations under this Regulation is exercisable by statutory instrument.
 2. Regulations made under this Regulation are subject to annulment in pursuance of a resolution of either House of Parliament.
 3. The power to make regulations under this Regulation—
 - (a) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and
 - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.”
- 19.** In Article 14, omit paragraph 5 (sanctions for misuse of slots).
- 20.** Omit Article 14a (report and cooperation).
- 21.** After Article 15 (entry into force), omit the sentence beginning “This Regulation shall”.

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) in order to address failures in retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (e) and (g) and (5) and (6)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend legislation in the field of aviation, relating to the allocation of slots at congested airports, to ensure that it operates effectively as part of retained EU law. Part 2 amends the Airports Slot Allocation Regulations 2006 (“the 2006 Regulations”). Part 3 amends the retained Annex 13 to the EEA Agreement (transport) and a retained EU Regulation, [Council Regulation \(EEC\) No 95/93](#) on common rules for the allocation of slots at Community airports (“Regulation 95/93”).

Part 2 (regulation 2) amends regulations 2 (interpretation), 8 (process of slot allocation), 11 (slot pool) and 13 (relations with third countries) of the 2006 Regulations. These amendments reflect the withdrawal of the United Kingdom from the European Union and the European Economic Area and, in particular, the fact that the European Commission will no longer have a role in relation to the allocation of slots at airports in the United Kingdom.

Regulation 3 omits paragraph 64b from Annex 13 (transport) to the EEA Agreement, so far as retained by section 3(2)(b) of the 2018 Act, since this provision will no longer be relevant from exit day, as the United Kingdom will no longer be part of the European Economic Area and will not be required to inform the European Commission under Article 12 of Regulation 95/93 about serious difficulties encountered by UK air carriers in third countries.

Regulations 4 to 18 amend the title and the following provisions of Regulation 95/93: Articles 1 (scope), 2 (definitions), 3 (conditions for airport coordination), 4 (the schedules facilitator and the coordinator), 5 (coordination committee), 6 (coordination parameters), 8 (process of slot allocation), 8b (exclusion of compensation claims), 9 (public service obligations), 10 (slot pool), 11 (complaints and rights of appeal), 12 (relations with third countries) and 13 (committee procedure). Regulations 19 to 21 omit Articles 14(5) (sanctions for misuse of slots), 14a (report and cooperation) and the application provision after Article 15 (entry into force) of Regulation 95/93. These amendments reflect the withdrawal of the United Kingdom from the European Union, the resulting removal of the role of the European Commission and the removal of the United Kingdom from the European Union legal system.

These Regulations also transfer the following powers of the European Commission to the Secretary of State: to require a capacity analysis to be carried out at a UK airport (regulation 8(3)(b)); and, by a new regulation making power, to suspend the application of Regulation 95/93 in relation to air carriers from another country with a view to remedying discriminatory behaviour by that country in relation to UK air carriers (regulations 17(3)(d) and 18).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.