
STATUTORY INSTRUMENTS

2004 No. 1256

CIVIL AVIATION

**The EC/Swiss Air Transport Agreement
(Consequential Amendments) Regulations 2004**

<i>Made</i>	- - - -	<i>4th May 2004</i>
<i>Laid before Parliament</i>		<i>10th May 2004</i>
<i>Coming into force</i>	- -	<i>12th June 2004</i>

The Secretary of State for Transport, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to air transport, in exercise of the powers conferred by that section, hereby makes the following Regulations:

1. These Regulations may be cited as the EC/Swiss Air Transport Agreement (Consequential Amendments) Regulations 2004 and shall come into force on 1st June 2004.
2. In the Civil Aviation Act 1982⁽³⁾ there shall be inserted—
 - (a) in section 69A(5)(a), after the words “EEA State”, the words “or Switzerland”; and
 - (b) in section 69A(8):
 - (i) in the definition of “the Community access Regulation”, after “21st March, 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport⁽⁴⁾”;
 - (ii) in the definition of “operating licence”, after the words “EEA State”, the words “or Switzerland”.
3. In the Licensing of Air Carriers Regulations 1992⁽⁵⁾ there shall be inserted—
 - (a) in regulation 2(1) in the definition of “the Council Regulation” after “21st March, 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies

(1) S.I.1993/2661.

(2) 1972 c. 68.

(3) 1982 c. 16. Section 69A was added by regulation 21 of the Licensing of Air Carriers Regulations 1992 (S.I. 1992/2992).

(4) O.J. L114, 30.04.2002 p1.

(5) S.I. 1992/2992, amended by S.I. 1993/101, 1993/3039, 1994/1732 and 1998/1751.

to the Agreement between the European Community and the Swiss Confederation on Air Transport” shall be inserted; and

- (b) in regulation 18(3) after the words “registered in” the words “Switzerland or”.

4. In the Access for Community Air Carriers to Intra-Community Air Routes Regulations 1992⁽⁶⁾ there shall be inserted—

- (a) in regulation 2(1) in the definition of “the Council Regulation”, after “21st March 1994”, the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”;

- (b) in regulation 2(1A):

after the definition of “EEA State”—

“; and “Swiss air carrier” means an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland.”;

- (c) in regulation 2(2) at the beginning of the paragraph, the words “Subject to paragraph (3)”;
- (d) after regulation 2(2), “2(3) In regulations 4, 4A, 6 and 6A the expression “Community air carrier” shall not include a Swiss air carrier.”;
- (e) after regulation 4,

“**4A.**—(1) Community air carriers and Swiss air carriers are hereby permitted to exercise traffic rights on routes between the United Kingdom and Switzerland and in operating air services may combine air services and use the same flight number on combined air services;

(2) From 1st June 2004 Swiss air carriers are hereby permitted to exercise traffic rights on routes between the United Kingdom and another EEA State.”;

- (f) in regulation 5, after the words “Nothing in regulation 4”, the words “or 4A”;
- (g) in regulation 5(d) after the words “EEA State”, the words “or by Switzerland”;
- (h) in regulation 5 (f) after the words “EEA State”, the words “or Switzerland”;
- (i) after regulation 6,

“**6A** Regulation 6 shall apply—

- (a) to a Community air carrier and a Swiss air carrier in relation to routes between the United Kingdom and Switzerland and,
- (b) from 1st June 2004 to a Swiss air carrier in relation to routes between the United Kingdom and another EEA State,

as it applies to a Community air carrier on routes between the United Kingdom and another EEA State.”; and

5. In the Air Fares Regulations 1992⁽⁷⁾ there shall be inserted in regulation 2(1), in the definition of “the Council Regulation”, after “21st March 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”.

⁽⁶⁾ S.I. 1992/2993, amended by S.I. 1993/3040 and 1994/1731.

⁽⁷⁾ S.I. 1992/2994, amended by S.I. 1993/100, 1993/3041 and 1994/1735.

6. In the Airports Slot Allocation Regulations 1993⁽⁸⁾, there shall be inserted in regulation 2(1), in the definition of “the Council Regulation”, after “21st March 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”.

7. In the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996⁽⁹⁾ there shall be inserted in regulations 8(5), 8(7), 9(4), and 13 after the words “member State” the words “or Switzerland”.

8. In the Airports (Groundhandling) Regulations 1997⁽¹⁰⁾ there shall be inserted in regulation 19(1) and (3) after the words “Member State”, in each place in which it occurs, the words “or Switzerland”.

9. In the Aeroplane Noise Regulations 1999⁽¹¹⁾ there shall be inserted—

- (a) in regulation 3 in the definition of “Community air carrier” and in regulations 7(1), 10(3)(a), 11(1), and 30(1) after the words “EEA State” the words “or Switzerland”;
- (b) in regulation 3 in the definition of “Community air carrier”, after the words “licensing air carriers” the words “, as that Regulation has effect in accordance with the EEA Agreement, as amended by the Decision of the EEA Joint Committee No. 7/94 of 21st March 1994, and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”;
- (c) in regulations 4(2), 5(2), 8(2), 9(2), 10(2), 13(1)(a), and 18(1) after the words “EEA States” the words “or Switzerland”;
- (d) in regulations 6(2), and 27(2) and (3) after the words “EEA States” the words “and Switzerland”;
- (e) in regulations 12(3)(a) and 14(3)(a) after the words “register of” the words “Switzerland or”;
- (f) in regulation 19(1) after the words “competent authority of” the words “Switzerland or of”;
- (g) in regulation 19(2) after the words “granted by” the words “Switzerland or”.

10. In the Air Navigation Order 2000⁽¹²⁾ there shall be inserted—

- (a) in article 27(2) after the words “21st March 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”;
- (b) in article 27(2) at the end the words “or Switzerland.”;
- (c) in article 113(1) after the words “21st March 1994” the words “and in accordance with the Decision of the Council, and of the Commission as regards the Agreement on Scientific and Technological co-operation, of 4th April 2002 on the conclusion of seven Agreements

⁽⁸⁾ S.I. 1993/1067, amended by S.I. 1993/3042 and 1994/1736.

⁽⁹⁾ S.I. 1996/2798.

⁽¹⁰⁾ S.I. 1997/2389, amended by S.I. 1998/2918.

⁽¹¹⁾ S.I. 1999/1452, amended by S.I. 1999/2253.

⁽¹²⁾ S.I. 2000/1562, to which there are amendments not relevant to these Regulations.

with the Swiss Confederation, in so far as it applies to the Agreement between the European Community and the Swiss Confederation on Air Transport”.

Signed by authority of the Secretary of State for Transport

4th May 2004

Tony McNulty
Parliamentary Under Secretary of State,
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

As a consequence of the Decision of the Council and Commission of 4th April 2002, which approved, *inter alia*, an agreement between the European Community and the Swiss Confederation on air transport it is necessary to amend various UK domestic provisions.

These Regulations make the relevant changes in United Kingdom domestic legislation to give effect to the agreement.

The Regulations amend—

The Civil Aviation Act 1982 (sections 69A(5)(a) and 69A(8)) (**regulation 2**): in the case of section 69A(5)(a) the amendment extends to an operating licence granted by an authority in Switzerland the provision which states that where a person's operating licence is revoked or suspended the route licence shall also be suspended; the definition of "Community access Regulation" has been amended to take account of the 4th April 2002 agreement; the definition of "operating licence" in the Community licensing Regulation has been extended to include an operating licence granted in Switzerland.

The Licensing of Air Carriers Regulations 1992 (regulations 2(1) and 18(3)) (**regulation 3**): in regulation 2(1) the definition of Council Regulation has been amended to take account of the Decision of 4th April, 2002; the amendment to regulation 18(3) extends to aircraft registered in Switzerland the provision which requires that an operating licence is not rendered invalid by reason only that the holder uses an aircraft registered in a European Economic Area ("EEA") State other than the United Kingdom.

The Access for Community Air Carriers to Intra-Community Air Routes Regulations 1992 (regulations 2(1), 2(1A), 2(2), 2(3), 4, 4A, 5(f), 6, and 6A) (**regulation 4**): in regulation 2(1) the definition of the "Council Regulation" has been amended to take account of the Decision of 4th April, 2002; a definition of "Swiss air carrier" has been given in regulation 2(1A); regulation 2(2) has been amended and regulation 2(3) added to ensure that Swiss air carriers are not construed for the purposes of regulations 4, 4A, 6 and 6A as being "Community air carriers". Regulation 4A gives Community air carriers and Swiss air carriers traffic rights in accordance with the agreement, and from 1st June 2004 will allow Swiss air carriers to exercise such rights on routes between the United Kingdom and another EEA State. The amendments to 5(d) and 5(f) respectively, extend the provisions regarding routes subject to public service obligations, and regarding scheduled air services where the relevant authority has refused a scheduled air service save on certain conditions, to Switzerland; regulation 6A extends the provisions in regulation 6 regarding the exercising of traffic rights in the absence of permission to Swiss carriers and to Community carriers, to the extent of the routes set out in the agreement. The regulation also makes provision in sub-paragraph (b) for the application of the regulation to Swiss carriers from 1st June 2004 on the routes between the UK and other EEA States which they are permitted to use from that date.

The Air Fares Regulations 1992 (regulation 2(1)) (**regulation 5**): the definition of "the Council Regulation" has been amended to take account of the Decision of 4th April, 2002.

The Airports Slot Allocation Regulations 1993 (regulation 2(1)) (**regulation 6**): the definition of "the Council Regulation" has been amended to take account of the Decision of 4th April, 2002.

The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996 (regulations 8(5), 8(7), 9(4) and 13) (**regulation 7**): the amendment to regulation 8(5) permits the chief inspector of air accidents to delegate the task of carrying out an investigation to Switzerland;

Status: This is the original version (as it was originally made).

regulation 8(7) has been amended to permit the chief inspector to carry out an investigation where the task has been delegated to the United Kingdom by Switzerland; regulation 9(4) has been amended to permit the chief inspector to provide assistance to the investigating body of Switzerland, when requested by it to do so; regulation 13 extends the exception from the requirement upon the chief inspector to report on an accident or incident from those delegated to him by another member State to include Switzerland.

The Airports (Groundhandling) Regulations 1997 (regulation 19(1) and (3)) (**regulation 8**): regulation 19(1) has been amended to extend to Switzerland the provisions applying to member States on reciprocity by third countries in respect of ground handling; regulation 19(3) extends the list of countries which cannot be “third countries” for the purposes of the Regulations to include Switzerland.

The Aeroplane Noise Regulations 1999 (regulations 3, 4(2), 5(2), 6(2), 7(1), 8(2), 9(2), 10(2) 10(3) (a), 11(1), 12(3)(a), 13(1)(a), 14(3)(a), 18(1), 19(1), 19(2), 27(2), 27(3) and 30(1)) (**regulation 9**): in regulation 3, the definition of Community air carrier has been extended to include an air carrier granted an operating licence by Switzerland, and reference has been included to the EEA Joint Committee Decision of 21st March 1994, and the Decision of 4th April 2002; the amendment to regulations 4(2), 5(2), 8(2), 9(2), 10(2), 13(1)(a) and 18(1) extend the requirement in respect of noise certificates under the regulations to Switzerland; regulation 6(2) extends the right of exemption of civil propeller-driven aeroplanes in accordance with the Regulations to permit their use in Switzerland; regulation 27(2) and (3) extend the requirement on the CAA to give information on the granting, suspension or revocation of exemptions under the Regulations to Switzerland; regulation 14(3)(a) extends the list of states to which the Regulations are not to apply to include Switzerland, where an exemption is in force granted by that state; regulation 19(1) and (2) provide for the recognition of noise certificates and exemptions granted by Switzerland under the Regulations.

Articles 27(2) and 113(1) of the Air Navigation Order 2000 have been amended to include reference to the 4th April, 2002 agreement (**regulation 10**).