

2018 No. 785

CIVIL AVIATION, ENGLAND AND WALES

The Airports (Noise-related Operating Restrictions) (England and Wales) Regulations 2018

<i>Made</i> - - - -	<i>27th June 2018</i>
<i>Laid before Parliament</i>	<i>2nd July 2018</i>
<i>Coming into force</i> - -	<i>23rd July 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is a Minister designated for the purposes of that section in relation to measures relating to air transport(b).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Airports (Noise-related Operating Restrictions) (England and Wales) Regulations 2018 and come into force on 23rd July 2018.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the 2014 Regulation” means Regulation (EU) No 598/2014 of the European Parliament and of the Council of 16th April 2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach(c) and repealing Directive 2002/30/EC(d);

“aircraft” has the same meaning as in Article 2(1) (definitions) of the 2014 Regulation;

“airport” means an airport which—

- (a) is in England or Wales, and
- (b) has more than 50,000 civil aircraft movements per calendar year, on the basis of the average number of movements in the last three calendar years before the last assessment of the noise situation at that airport was carried out in accordance with the Environmental

(a) 1972 c. 68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

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

(c) OJ L 173, 12.6.2014, p. 65-78.

(d) Directive 2002/30/EC of the European Parliament and of the Council of 26th March on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (OJ L 85, 28.3.2002, p. 40-46).

Noise (England) Regulations 2006(a) or, as the case may be, the Environmental Noise (Wales) Regulations 2006(b);

“airport operator” means, in relation to a particular airport, the person for the time being having management of that airport;

“movement” means either a take-off or a landing;

“operating restriction” has the same meaning as in Article 2(6) of the 2014 Regulation.

Competent authority: Town and Country Planning Act 1990

3.—(1) Except in the circumstances specified in paragraph (2), the local planning authority is the competent authority for the purposes of the 2014 Regulation in relation to—

(a) a proposal for it to impose, modify or discharge an operating restriction under the 1990 Act;

(b) an operating restriction imposed or modified under the 1990 Act.

(2) The circumstances specified are when any of the matters referred to in sub-paragraph (a) or (b) of paragraph (1) are considered by virtue of—

(a) an application referred to the Secretary of State or the Welsh Ministers(c) under section 77(d) of the 1990 Act; or

(b) an appeal to the Secretary of State or the Welsh Ministers under section 78(e), 106B(f) or 174(g) of the 1990 Act.

(3) Where an application or appeal mentioned in paragraph (2) is considered by the Secretary of State or, as the case may be, the Welsh Ministers, the Secretary of State or, as the case may be, the Welsh Ministers are the competent authority for the purposes of the 2014 Regulation, in relation to those matters which are subject to the application or appeal.

(4) In this regulation—

“the 1990 Act” means the Town and Country Planning Act 1990(h);

“local planning authority” has the same meaning as in Part 1 of the 1990 Act.

Competent authority: Planning Act 2008

4.—(1) Subject to paragraph (2), the relevant local planning authority is the competent authority for the purposes of Article 6(3) of the 2014 Regulation (follow up and monitoring of operating

(a) S.I. 2006/2238, as amended by S.I. 2008/375, 2009/1610, 2010/340 and 2015/377.

(b) S.I. 2006/2629 (W. 225), as amended by S.I. 2009/47 (W. 15).

(c) The functions of the Secretary of State under the Town and Country Planning Act 1990 (c. 8) (“the 1990 Act”) referred to in regulation 3 of these Regulations, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(d) Section 77 of the 1990 Act was amended by: paragraphs 1 and 20 of Schedule 12 to the Housing and Planning Act 2016 (c. 22); paragraphs 2 and 11 of Schedule 4 to the Infrastructure Act 2015 (c. 7); paragraphs 1 and 10 of Schedule 12 to the Localism Act 2011 (c. 20); paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34); and, by S.I. 2014/2773 (W. 280).

(e) Section 78 of the 1990 Act was amended by: paragraphs 1 and 21 of Schedule 12 to the Housing and Planning Act 2016; section 123(1) and (3) of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; paragraphs 2 and 12 of Schedule 4 to the Infrastructure Act 2015; paragraphs 1 and 8 of Schedule 1 to the Growth and Infrastructure Act 2013 (c. 27); section 17(2) of the Planning and Compensation Act 1991; section 43(2) of the Planning and Compulsory Purchase Act 2004 (c. 5); paragraphs 1 and 3 of Schedule 10, and paragraphs 1 and 2 of Schedule 11, to the Planning Act 2008 (c. 29); and, sections 45 and 47(1) of, and paragraph 7(1) and (3) of Schedule 7 to, the Planning (Wales) Act 2015 (2015 anaw 4).

(f) Section 106B of the 1990 Act was inserted by section 12(1) of the Planning and Compensation Act 1991 and amended by: paragraphs 1 and 5 of Schedule 2 to the Growth and Infrastructure Act 2013; section 34(5) to (7) of the Greater London Authority Act 2007 (c. 24); section 174(1) and (4) of the Planning Act 2008; and, paragraph 77(1) and (3) of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011.

(g) Section 174 of the 1990 Act was amended by: section 6(1) of, and paragraph 2 of Schedule 7 to, the Planning and Compensation Act 1991; paragraphs 2 and 5 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24); section 46 of the Planning (Wales) Act 2015; and, S.I. 2003/956 and 2004/3156 (W. 273).

(h) 1990 c. 8.

restrictions) in relation to any operating restriction imposed by, or provided for in, an order granting development consent under section 114 of the Planning Act 2008(a).

(2) Paragraph (1) does not apply where the Secretary of State has by notice directed that the Secretary of State is to be the competent authority for the purposes referred to in that paragraph.

(3) A notice under paragraph (2) must be—

- (a) in writing,
- (b) published in a way that the Secretary of State thinks appropriate, and
- (c) served by post on the relevant local planning authority and the airport operator concerned.

(4) In this regulation, “relevant local planning authority” has the same meaning as in section 173 of the Planning Act 2008.

Competent authority: Secretary of State

5. In any other case not covered by regulation 3 or 4, the Secretary of State is the competent authority for the purposes of the 2014 Regulation.

Provision of information

6. An airport operator must provide a competent authority with such information in relation to an airport managed by that operator as the authority may require to enable it to carry out its functions under the 2014 Regulation.

Revocation

7. The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003(b) are revoked in relation to England and Wales.

Signed by authority of the Secretary of State for Transport

27th June 2018

Sugg
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations implement, in relation to England and Wales, the requirement to designate competent authorities for the purposes of Regulation (EU) No 598/2014 of the European Parliament and of the Council of 16th April 2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC (“the 2014 Regulation”).

Regulation 3 provides for who will be the competent authority in relation to operating restrictions considered under the Town and Country Planning Act 1990. The competent authority will be:

- (a) the local planning authority, in relation to operating restrictions proposed, or imposed, in relation to developments considered under the Town and Country Planning Act 1990

(a) 2008 c. 29. Section 114 was amended by section 128(2) of, and paragraph 55 of Schedule 13 to, the Localism Act 2011. Under section 120 of the Planning Act 2008, an order granting development consent may impose requirements in connection with the development for which consent is granted, including by applying a statutory provision which relates to any matter for which provision may be made in the order.

(b) S.I. 2003/1742.

(except where the planning application has been referred to, or an appeal of a planning decision has been made to, the Secretary of State or the Welsh Ministers); or,

- (b) the Secretary of State or the Welsh Ministers, in relation to operating restrictions considered by virtue of a planning application referred to, or an appeal made to, them.

Except where the Secretary of State has otherwise provided in a notice in writing (with the effect that the Secretary of State will become the competent authority), regulation 4 provides that the relevant local planning authority will be the competent authority for the purposes of monitoring implementation of operating restrictions imposed as a condition of an order granting development consent under section 114 of the Planning Act 2008.

Regulation 5 provides that, in any other case, the Secretary of State will be the competent authority for the purposes of the 2014 Regulation.

Regulation 6 requires airport operators to provide a competent authority with such information as the authority may require to carry out its functions under the 2014 Regulation.

Regulation 7 revokes the Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003, in relation to England and Wales. Those Regulations made provision in relation to the adoption of noise-related operating restrictions at airports in the United Kingdom.

No impact assessment has been prepared in relation to these Regulations as there is no, or no significant, impact on business, charities or voluntary bodies, or the public sector. An Explanatory Memorandum is also available alongside the instrument on www.legislation.gov.uk.

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