

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 Community (Recast) (Text with EEA relevance)

CHAPTER III

ACCESS TO ROUTES

Article 16

General principles for public service obligations

1 A Member State, following consultations with the other Member States concerned and after having informed the Commission, the airports concerned and air carriers operating on the route, may impose a public service obligation in respect of scheduled air services between an airport in the Community and an airport serving a peripheral or development region in its territory or on a thin route to any airport on its territory any such route being considered vital for the economic and social development of the region which the airport serves. That obligation shall be imposed only to the extent necessary to ensure on that route the minimum provision of scheduled air services satisfying fixed standards of continuity, regularity, pricing or minimum capacity, which air carriers would not assume if they were solely considering their commercial interest.

The fixed standards imposed on the route subject to that public service obligation shall be set in a transparent and non-discriminatory way.

2 In instances where other modes of transport cannot ensure an uninterrupted service with at least two daily frequencies, the Member States concerned may include in the public service obligation the requirement that any Community air carrier intending to operate the route gives a guarantee that it will operate the route for a certain period, to be specified, in accordance with the other terms of the public service obligation.

3 The necessity and the adequacy of an envisaged public service obligation shall be assessed by the Member State(s) having regard to:

- a the proportionality between the envisaged obligation and the economic development needs of the region concerned;
- b the possibility of having recourse to other modes of transport and the ability of such modes to meet the transport needs under consideration, in particular when existing rail services serve the envisaged route with a travel time of less than three hours and with sufficient frequencies, connections and suitable timings;
- c the air fares and conditions which can be quoted to users;
- d the combined effect of all air carriers operating or intending to operate on the route.

4 When a Member State wishes to impose a public service obligation, it shall communicate the text of the envisaged imposition of the public service obligation to the Commission, to the other Member States concerned, to the airports concerned and to the air carriers operating the route in question.

The Commission shall publish an information notice in the *Official Journal of the European Union*:

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- a identifying the two airports connected by the route concerned and possible intermediate stop-over point(s);
- b mentioning the date of entry into force of the public service obligation; and
- c indicating the complete address where the text and any relevant information and/or documentation related to the public service obligation shall be made available without delay and free of charge by the Member State concerned.

5 Notwithstanding the provisions of paragraph 4, with respect to routes where the number of passengers expected to use the air service is less than 10 000 per annum, the information notice on a public service obligation shall be published either in the *Official Journal of the European Union* or in the national official journal of the Member State concerned.

6 The date of entry into force of a public service obligation shall not be earlier than the date of publication of the information notice referred to in the second subparagraph of paragraph 4.

7 When a public service obligation has been imposed in accordance with paragraphs 1 and 2 the Community air carrier shall be able to offer seat-only sales provided that the air service in question meets all the requirements of the public service obligation. Consequently that air service shall be considered as a scheduled air service.

8 When a public service obligation has been imposed in accordance with paragraphs 1 and 2, any other Community air carrier shall at any time be allowed to commence scheduled air services meeting all the requirements of the public service obligation, including the period of operation that may be required in accordance with paragraph 2.

9 Notwithstanding paragraph 8, if no Community air carrier has commenced or can demonstrate that it is about to commence sustainable scheduled air services on a route in accordance with the public service obligation which has been imposed on that route, the Member State concerned may limit access to the scheduled air services on that route to only one Community air carrier for a period of up to four years, after which the situation shall be reviewed.

This period may be up to five years if the public service obligation is imposed on a route to an airport serving an outermost region, referred to in Article 299(2) of the Treaty.

10 The right to operate the services referred to in paragraph 9 shall be offered by public tender in accordance with Article 17, either singly or, in cases where justified for reasons of operational efficiency, for a group of such routes to any Community air carrier entitled to operate such air services. For reasons of administrative efficiency, a Member State may issue a single invitation to tender covering different routes.

11 A public service obligation shall be deemed to have expired if no scheduled air service has been operated during a period of 12 months on the route subject to such obligation.

12 In case of sudden interruption of service by the Community air carrier selected in accordance with Article 17, the Member State concerned may, in case of emergency, select by mutual agreement a different Community air carrier to operate the public service obligation for a period up to seven months, not renewable, under the following conditions:

- a any compensation paid by the Member State shall be made in compliance with Article 17(8);
- b the selection shall be made among Community air carriers in compliance with the principles of transparency and non-discrimination;
- c a new call for tender shall be launched.

The Commission and the Member State(s) concerned shall be informed without delay of the emergency procedure and of its reasons. At the request of a Member State, or on

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its own initiative, the Commission may, in accordance with the procedure referred to in Article 25(2) suspend the procedure if it considers after its assessment that it does not meet the requirements of this paragraph or is otherwise contrary to Community law.

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Changes and effects yet to be applied to :

- Regulation revoked by [S.I. 2018/1392 reg. 7](#)
- Regulation title amended by [S.I. 2018/1392 Sch. 2 para. 2](#)
- Art. 16(1) words inserted by [S.I. 2018/1392 Sch. 2 para. 17\(2\)\(c\)](#)
- Art. 16(1) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(2\)\(a\)](#)
- Art. 16(1) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(2\)\(b\)](#)
- Art. 16(2) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(3\)\(a\)](#)
- Art. 16(2) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(3\)\(b\)](#)
- Art. 16(3) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(4\)\(a\)](#)
- Art. 16(4) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(5\)\(a\)](#)
- Art. 16(4) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(5\)\(b\)\(i\)](#)
- Art. 16(5) omitted by [S.I. 2018/1392 Sch. 2 para. 17\(6\)](#)
- Art. 16(7) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(7\)](#)
- Art. 16(8) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(7\)](#)
- Art. 16(9) words omitted by [S.I. 2018/1392 Sch. 2 para. 17\(8\)\(c\)](#)
- Art. 16(9) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(8\)\(a\)](#)
- Art. 16(9) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(8\)\(b\)](#)
- Art. 16(10) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(9\)\(a\)](#)
- Art. 16(10) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(9\)\(b\)](#)
- Art. 16(12) words omitted by [S.I. 2018/1392 Sch. 2 para. 17\(11\)](#)
- Art. 16(12) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(10\)\(a\)](#)
- Art. 16(12) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(10\)\(b\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2018/1392 Sch. 2 para. 22](#)
- Art. 2(2) words substituted by [S.I. 2018/1392 Sch. 2 para. 4\(2\)](#)
- Art. 2(7) words omitted by [S.I. 2018/1392 Sch. 2 para. 4\(3\)](#)
- Art. 2(8) words omitted by [S.I. 2018/1392 Sch. 2 para. 4\(4\)](#)
- Art. 2(11) words substituted by [S.I. 2018/1392 Sch. 2 para. 4\(5\)\(a\)](#)
- Art. 2(11) words substituted by [S.I. 2018/1392 Sch. 2 para. 4\(5\)\(b\)](#)
- Art. 2(11A) inserted by [S.I. 2018/1392 Sch. 2 para. 4\(6\)](#)
- Art. 2(13)(14) omitted by [S.I. 2018/1392 Sch. 2 para. 4\(7\)](#)
- Art. 2(18)(19) words omitted by [S.I. 2018/1392 Sch. 2 para. 4\(8\)](#)
- Art. 2(20)-(22) omitted by [S.I. 2018/1392 Sch. 2 para. 4\(9\)](#)
- Art. 2(26) substituted by [S.I. 2018/1392 Sch. 2 para. 4\(10\)](#)
- Art. 4(a) words substituted by [S.I. 2018/1392 Sch. 2 para. 6\(b\)](#)
- Art. 4(b) words substituted by [S.I. 2018/1392 Sch. 2 para. 6\(c\)](#)
- Art. 4(f) omitted by [S.I. 2018/1392 Sch. 2 para. 6\(d\)](#)
- Art. 13(3)(a) words omitted by [S.I. 2018/1392 Sch. 2 para. 14\(4\)\(b\)\(ii\)](#)
- Art. 13(3)(a) words substituted by [S.I. 2018/1392 Sch. 2 para. 14\(4\)\(b\)\(i\)](#)
- Art. 13(3)(b) words inserted by [S.I. 2018/1392 Sch. 2 para. 14\(4\)\(c\)\(ii\)](#)
- Art. 13(3)(b) words substituted by [S.I. 2018/1392 Sch. 2 para. 14\(4\)\(c\)\(i\)](#)
- Art. 13(3)(b) words substituted by [S.I. 2018/1392, Sch. 2 para. 14\(4\)\(c\)\(zi\)](#) (as inserted) by [S.I. 2019/687 reg. 5\(4\)](#)
- Art. 16(3)(a) words inserted by [S.I. 2018/1392 Sch. 2 para. 17\(4\)\(b\)](#)
- Art. 16(4)(c) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(5\)\(b\)\(ii\)](#)
- Art. 16(12)(a) words omitted by [S.I. 2018/1392 Sch. 2 para. 17\(10\)\(c\)](#)
- Art. 16(12)(b) words substituted by [S.I. 2018/1392 Sch. 2 para. 17\(10\)\(d\)](#)

- Art. 17(5)(a) omitted by S.I. 2018/1392 Sch. 2 para. 18(4)(a)
- Art. 17(5)(d) words omitted by S.I. 2018/1392 Sch. 2 para. 18(4)(b)