

Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (Text with EEA relevance)

CHAPTER III

SUBSTANTIVE REQUIREMENTS

SECTION V

ATM/ANS

Article 40

Essential requirements

- 1 The provision of ATM/ANS referred to in point (g) of Article 2(1) shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.
- 2 Aircraft operating in [^{F1}United Kingdom] airspace, except those engaged in activities referred to in point (a) of Article 2(3), shall comply with the essential requirements set out in point 1 of Annex VIII.

Textual Amendments

- F1** Words in Art. 40(2) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, 117 (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 41

ATM/ANS providers

- 1 Providers of ATM/ANS shall be required to hold a certificate.
- 2 The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with [^{F2}regulations made under] Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40.
- 3 The certificate referred to in paragraph 1 of this Article shall specify the privileges granted. That certificate may be amended to add or remove privileges, in accordance with [^{F3}regulations made under] point (b) of the first subparagraph of Article 43(1).

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V. (See end of Document for details)

4 The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with [F⁴regulations made under] point (b) of the first subparagraph of Article 43(1).

5 By way of derogation from paragraph 1 of this Article, in accordance with [F⁵regulations made under] Article 43, [F⁶the CAA] may decide that providers of flight information services are to be allowed to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 40. F⁷ ...

6 By way of derogation from paragraph 1, [F⁸the CAA] may grant exemptions to providers of ATM/ANS from the requirement to hold a certificate, where all of the following conditions have been met:

- a the provider has its principal place of business located outside the territories for which [F⁹the United Kingdom is] responsible under the Chicago Convention;
- b the provision of ATM/ANS by that provider concerns air traffic of small volume in a limited part of the airspace for which the [F¹⁰United Kingdom] is responsible and where that part of the airspace borders with an airspace under the responsibility of a third country;
- c requiring the provider to demonstrate compliance with the rules referred to in paragraph 1 would involve a disproportionate effort from that provider in light of the nature and risk of the particular activity that it carries out within that airspace;
- d the [F¹¹CAA] has set rules and procedures applicable to the provision of ATM/ANS by the provider which ensure, in accordance with international standards and recommended practices and taking account of the specific circumstances of the case in question, an acceptable level of safety and compliance with the essential requirements referred to in Article 40, and has established appropriate and effective means and arrangements for oversight and enforcement to ensure compliance with those rules and procedures;
- e the scope of the exemption is clearly defined and the exemption remains limited to what is strictly necessary; where its duration exceeds five years, the exemption is subject to regular review at suitable intervals; and the exemption is applied in a non-discriminatory manner.

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Textual Amendments

- F2** Words in Art. 41(2) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **118(2)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 41(3) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **118(2)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 41(4) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **118(2)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

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- F5** Words in Art. 41(5) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(3)(a)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 41(5) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(3)(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 41(5) omitted (31.12.2020) by virtue of The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(3)(c)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 41(6) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(4)(a)(i)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in Art. 41(6)(a) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(4)(a)(ii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 41(6)(b) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(4)(a)(iii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Word in Art. 41(6)(d) substituted (31.12.2020) by The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(4)(a)(iv)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 41(6) omitted (31.12.2020) by virtue of The Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/645), regs. 1, **118(4)(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 42

Organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents

1 Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents, may be required, in accordance with [F13regulations made under] Article 43, to:

- a declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the activities performed in compliance with those [F14regulations]; or
- b hold a certificate.

2 The certificate referred to in point (b) of paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with the rules established by [F15regulations made under] Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40.

3 The certificate referred to in point (b) of paragraph 1 of this Article shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with [F16regulations made under] point (d) of the first subparagraph of Article 43(1).

4 The certificate referred to in point (b) of paragraph 1 of this Article may be limited, suspended or revoked, when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with [F17regulations made under] point (d) of the first subparagraph of Article 43(1).

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V. (See end of Document for details)

Textual Amendments

- F13** Words in Art. 42(1) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **119(2)(a)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Word in Art. 42(1)(a) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **119(2)(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 42(2) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **119(3)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in Art. 42(3) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **119(3)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in Art. 42(4) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **119(3)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 43

[^{F18}Regulations] as regards ATM/ANS providers and organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents

1 In order to ensure ^{F19}... compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), the [^{F20}Secretary of State] shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, [^{F21}make regulations] laying down detailed provisions concerning:

- a the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 40, including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;
- b the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1);
- c the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;
- d the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article 42(1), and for the situations in which such certificates are to be required;
- e the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;
- f the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making declarations in accordance with Article 41(5) and point (a) of Article 42(1).

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3 [^{F24}When making regulations under paragraph 1, the Secretary of State] shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall

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take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.

Textual Amendments

- F18** Word in Art. 43 heading substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(2)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Art. 43(1) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(3)(a)(i)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in Art. 43(1) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(3)(a)(ii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in Art. 43(1) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(3)(a)(iii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Words in Art. 43(1) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(3)(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Art. 43(2) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(4)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in Art. 43(3) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **120(5)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 44

[^{F25}Regulations] as regards the use of airspace and the design of airspace structures

1 In order to ensure ^{F26}... compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), as well as for the design of airspace structures, the [^{F27}Secretary of State] shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, [^{F28}make regulations] laying down detailed provisions concerning:

- a the operating rules related to the use of airspace, aircraft equipment and ATM/ANS systems and ATM/ANS constituents required for the use of airspace;
- b the rules and procedures for the design of airspace structures in order to ensure compliance with Article 46.

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3 [^{F31}When making regulations under paragraph 1, the Secretary of State] shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2, 3, 10, 11 and 15 to the Chicago Convention.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V. (See end of Document for details)

Textual Amendments

- F25** Word in Art. 44 heading substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(2)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in Art. 44(1) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(3)(a)(i)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in Art. 44(1) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(3)(a)(ii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in Art. 44(1) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(3)(a)(iii)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in Art. 44(1) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(3)(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F30** Art. 44(2) omitted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(4)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Art. 44(3) substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **121(5)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 45

ATM/ANS systems and ATM/ANS constituents

1 Where [F32regulations made under] Article 47 so provide, the providers of ATM/ANS referred to in Article 41 shall be required to declare that the ATM/ANS systems and ATM/ANS constituents which are to be put into operation by those service providers comply with the detailed specifications established in accordance with [F32regulations made under] Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

2 Where [F32regulations made under] Article 47 so provide, ATM/ANS systems and ATM/ANS constituents shall be subject to certification and shall be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that those systems and constituents comply with the detailed specifications established in accordance with [F32regulations made under] Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

By way of derogation from the first subparagraph, where [F32regulations made under] Article 47 so provide, the organisation involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents shall be permitted to declare that those systems and constituents comply with the detailed specifications established in accordance with [F32regulations made under] Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40 and that those systems and constituents are suitable for use.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V. (See end of Document for details)

Textual Amendments

- F32** Words in Art. 45 substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **122** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 46

Design of airspace structures

[^{F33}The CAA] shall ensure that airspace structures are properly designed, surveyed and validated before they can be deployed and used by aircraft, in accordance with [^{F34}regulations made by the Secretary of State under] point (b) of Article 44(1).

Textual Amendments

- F33** Words in Art. 46 substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **123(a)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)
- F34** Words in Art. 46 substituted (31.12.2020) by [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **123(b)** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), 12); 2020 c. 1, Sch. 5 para. 1(1)

Article 47

Delegated powers

1 For the ATM/ANS systems and ATM/ANS constituents the [^{F35}the Secretary of State may make regulations] laying down detailed rules with regard to:

- a the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents for the purposes of certification in accordance with Article 45(2);
- b the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 45(2), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such certificates are to be required or declarations are to be permitted, as applicable;
- c the privileges and responsibilities of the holders of certificates referred to in Article 45(2);
- d the privileges and responsibilities of the organisations issuing declarations in accordance with Article 45(1) and (2);
- e the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 45(1), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned such declarations are to be required;
- f the conditions for establishing the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents which are subject to a declaration in accordance with Article 45(1) and (2).

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V. (See end of Document for details)

2 As regards the provision of ATM/ANS, the [^{F36}the Secretary of State may make regulations] to amend Annex VIII and, if applicable, Annex VII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the ATM/ANS, in order and to the extent required to achieve the objectives set out in Article 1.

Textual Amendments

- F35** Words in Art. 47(1) substituted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **124** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), **12**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F36** Words in Art. 47(2) substituted (31.12.2020) by virtue of [The Aviation Safety \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/645\)](#), regs. 1, **124** (with Sch. 3) (as amended by S.I. 2019/1098, regs. 1(3), **12**); 2020 c. 1, **Sch. 5 para. 1(1)**

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2018/1139 of the European Parliament and of the Council, SECTION V.