

EXPLANATORY MEMORANDUM TO

THE CIVIL AVIATION (AERIAL ADVERTISING) (AMENDMENT) REGULATIONS 2020

2020 No. 430

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The instrument introduces an amendment to the Civil Aviation (Aerial Advertising) Regulations 1995 to allow aerial advertising by way of skytyping and skywriting.
- 2.2 Skytyping and skywriting are forms of aerial advertising which use smoke to form words or symbols in the sky. Skywriting typically involves the use of a single aeroplane whereas skytyping involves a group of aeroplanes flying in formation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 82(1) of the Civil Aviation Act 1982 prohibits aerial advertising and propaganda save in such circumstances as may be prescribed by regulations made by the Secretary of State.
- 6.2 The current prescribed circumstances are accordingly set out in regulation 4 of the Civil Aviation (Aerial Advertising) Regulations 1995. This instrument expands the prescribed circumstances so as to include skytyping and skywriting.

7. Policy background

What is being done and why?

- 7.1 The origins of the present provision can be traced back to the (now repealed) Civil Aviation (Licensing) Act 1960 and the regulations made thereunder which prohibited aerial advertising except for certain public purposes.
- 7.2 The list of prescribed circumstances was gradually extended in subsequent regulations. The 1995 regulations now permit (amongst other things) banner towing aeroplanes for the display of advertisements, use of airships for the display of advertisements and for communicating information by means of illuminated signs, and helicopters for communicating information by means of illuminated or non-illuminated signs attached to them. There are also other provisions relating to the use of kites and balloons.
- 7.3 This instrument amends the regulations so as to make skytyping and skywriting lawful in line with the other forms of aerial display allowed in the UK.
- 7.4 The legalisation of skytyping and skywriting is in line with the Government's commitment to reduce the regulatory burden for General Aviation and adds the UK to the list of countries where these types of aerial displays are allowed such as the US, France, Spain, countries in the Middle East, South Africa, China and Japan. It also follows the UK Government's commitment to support small business.
- 7.5 The safety, environmental and technical aspects of skytyping and skywriting remain covered by existing aviation laws. Complaints regarding the content of created messages could be addressed via the local Trading Standards Office or the Advertising Standards Authority depending on the particularities of the case.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not consolidate any other instrument.

10. Consultation outcome

- 10.1 A public consultation about the legalisation of skytyping and skywriting was held for two weeks between 16th and 29th March 2020. It was open to members of the public, trade bodies, other organisations (including transport bodies and charities) and registered companies.
- 10.2 In accordance with the Consultation Guidelines 2018, it was decided that the public consultation should be run for two weeks given that the Department for Transport had already consulted on the principle of the legislation in 2019 as part of the Aviation 2050 Green Paper.
- 10.3 A total of 93 responses were received: 80 private individuals, 3 trade bodies, 2 registered companies and 8 others.
- 10.4 Respondents were asked for comments on the Department for Transport's assessment of economic benefits and impact, safety, emissions, noise, visual intrusion and impact

on other sectors. The Department also asked if respondents were aware of an appetite from companies currently undertaking skywriting and skytyping abroad or those operating in the domestic market to do so in the UK.

- 10.5 The devolved administrations were also invited to respond to the consultation; no additional comments on the substantive issues raised by the consultation were received by the Department.
- 10.6 There were concerns raised in relation to the potential for visual intrusion, increased emissions and noise from aviation, as well as safety. The Department takes such concerns, especially safety, seriously, and has considered them carefully. The activities covered by this instrument will be regulated in accordance with existing aviation laws, and the Department will work with the Civil Aviation Authority to ensure suitable additional mitigation is in place if necessary. The Department also notes that skytyping and skywriting activities depend on the right weather conditions, namely clear skies and light winds. Given the UK's climate, a sharp increase in the number of aerial activities of this nature is not anticipated.

11. Guidance

- 11.1 Guidance is not required.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business, charities or voluntary bodies, or the public sector.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 The measures will have negligible impact on business, so no mitigation is therefore proposed.

14. Monitoring & review

- 14.1 As this instrument does not have significant impact on business, no review clause is required.
- 14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Kelly Tolhurst MP, Parliamentary Under Secretary of State, has made the following statement:

“It would not be appropriate in the circumstances to make provision for a review as a review would be disproportionate taking into account that the instrument only impacts on a small number of aerial advertisers and such impact is expected to have an annual net impact of less than £5 million.”

15. Contact

- 15.1 Alicia de Vries at the Department for Transport, Telephone: 07966 513151 or email: Alicia.deVries@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 David Harding, Deputy Director for General Aviation, Safety and CAA, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kelly Tolhurst MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.