

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c. 16) (“the 2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations amend Regulation (EC) 785/2004 (“the Regulation”) and the Civil Aviation (Insurance) Regulations 2005 (S.I. 2005/1089) (“the 2005 Regulations”). The Regulation prescribes minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties. The 2005 Regulations make provision for the monitoring of compliance with, and enforcement of, the Regulation in the United Kingdom. Part 2 (regulation 2) amends the 2005 Regulations to ensure that they operate effectively as part of retained EU law by addressing deficiencies falling within section 8(2)(a) of the 2018 Act. For example, the amendments remove the reference to Article 8 of the Regulation as this is redundant. Part 3 (regulations 3 to 14) amends the Regulation to ensure that it operates effectively as part of retained EU law by addressing deficiencies falling within section 8(2)(a) and (b) of the 2018 Act. For example, these Regulations remove redundant references to EU entities or concepts (e.g. Member States, the Community or Commission).

Regulation 6 amends the definition provisions in Article 3 of the Regulation. Regulations 8, 9 and 10 amend Articles 5 to 7 of the Regulation to (amongst other things) ensure the continued availability of necessary legislative powers by replacing legislative powers conferred on the Commission (e.g. in Article 5(5)) or Member States (e.g. in Article 6(1)) with powers to make regulations conferred on the Secretary of State. Regulation 12 inserts new Article 9A into the Regulation which has the effect that the power of the Secretary of State to make regulations in Articles 5(5), 6(1), 6(5) and 7(2) is subject to the affirmative resolution procedure (the Regulation previously conferred these legislative powers on an EU entity or public authority in a Member State).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum has been published alongside these Regulations and is available with these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018.