
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of and paragraph 21 of Schedule 7 to 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. Regulation 6 contains provision for this purpose made under section 71 of the Civil Aviation Act 1982 (c. 16). These Regulations also include provision at regulation 5(2) made under section 2(2) of the European Communities Act 1972 (c. 68).

These Regulations make amendments to legislation in the field of aviation, relating to the rights of passengers and the Air Travel Organisers' Licensing (“ATOL”) scheme.

Part 2 (regulation 2) makes a consequential amendment to the Carriage by Air Act 1961 to reflect changes made to Council Regulation (EC) No 2027/97 by Part 4 of these Regulations.

In Part 3, regulations 3 and 4 make consequential amendments to subordinate legislation to reflect changes made to Council Regulation (EC) No 2027/97 by Part 4 of these Regulations.

Regulation 5(2) widens offences for breaches of certain provisions of Regulation (EC) No 261/2004 to cover breaches committed abroad. It comes into force 22 days after these Regulations are made. On EU exit, regulation 5(3) will further amend the offences for breach of those provisions, to align the scope of those offences with the scope of Regulation (EC) No 261/2004 as amended by Part 4 of these Regulations.

Regulation 6 makes changes to the ATOL scheme in light of the withdrawal of the United Kingdom from the EU, including at regulation 6(3) to (6) removal of provision which is based on mutual recognition of insolvency protection measures.

Part 4 amends Council Regulation (EC) No 2027/97 which concerns the obligations of air carriers as regards liability in relation to injury to passengers and damage to baggage; Regulation (EC) No 261/2004 which concerns the rights of passengers if they are denied boarding against their will, or their flight is cancelled or delayed; and Regulation (EC) No 1107/2006 which concerns the rights of disabled passengers and those with reduced mobility to access air transport and receive free-of-charge assistance to enable them to use it on an equal footing with other passengers. The amendments to these EU Regulations are made to ensure that they operate 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 and concepts (e.g. Member States, the Community and Commission).

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 at www.legislation.gov.uk.

Changes to legislation:

There are currently no known outstanding effects for the The Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019.