
STATUTORY INSTRUMENTS

2021 No. 534

**The Air Navigation (Carbon Offsetting and Reduction
Scheme for International Aviation) Order 2021**

PART 2

Administration

CHAPTER 1

General

Notification to ICAO of voluntary participation in CORSIA

7.—(1) The Secretary of State must notify ICAO of any change in the decision by the government of the United Kingdom to voluntarily participate, or to discontinue its voluntary participation, in CORSIA, for the purpose of the inclusion of the United Kingdom in the ICAO document entitled “CORSIA States for Chapter 3 State Pairs”(1).

(2) The notification in paragraph (1) must be made by 30th June in each year from and including 2021 to and including 2025, for the purposes of inclusion in the subsequent year of the scheme.

Attribution of an aeroplane operator to the United Kingdom

8.—(1) The United Kingdom is the administering State for an aeroplane operator where—

- (a) the aeroplane operator has an ICAO Designator which identifies the United Kingdom as the Notifying State, as listed in the ICAO document entitled ICAO Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services(2),
- (b) without an ICAO Designator, the aeroplane operator has a valid AOC, or equivalent, or
- (c) without an ICAO Designator or AOC, the aeroplane operator has its registered office in the United Kingdom or, where the aeroplane operator is a natural person, is resident in the United Kingdom.

(2) An aeroplane operator with international flights attributed to it and which has the United Kingdom as its administering State must notify the Regulator of that fact.

(3) The Secretary of State, with the assistance of the Regulator, must ensure the correct attribution of an aeroplane operator to the United Kingdom according to the approach in paragraph (1).

(4) A Regulator must, by 30th October in each scheme year, provide the Secretary of State with a list of aeroplane operators for which it is the Regulator.

(1) “CORSIA States for Chapter 3 State Pairs” is available from the ICAO website at www.icao.int. For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail sales@icao.int).

(2) ICAO Designators and Notifying States are contained in ICAO Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services (Doc 8585) which is available from the ICAO website at www.icao.int. For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail sales@icao.int).

(5) The Secretary of State must submit to ICAO in accordance with the timeline set out in Schedule 1 a list of aeroplane operators which are attributed to the United Kingdom containing the required information as described in Schedule 5, Table 3 and the Secretary of State may submit updates to this list to ICAO on a more frequent basis.

Attribution of international flights to an aeroplane operator

9.—(1) An aeroplane operator must identify international flights that are attributed to it in accordance with paragraph (3).

(2) Two or more consecutive flights operated under the same flight number are considered as separate flights for the purposes of this Order.

(3) An international flight is attributable to an aeroplane operator as follows—

- (a) when Item 7 (aircraft identification)(3) of the flight plan contains the ICAO Designator, that flight must be attributed to the aeroplane operator that has been assigned this Designator,
- (b) when Item 7 (aircraft identification) of the flight plan contains the nationality or common mark, and registration mark of an aeroplane that is explicitly listed in a valid AOC, or equivalent, that flight must be attributed to the aeroplane operator that holds the air operator certificate, and
- (c) when the aeroplane operator of a flight has not been identified under sub-paragraphs (a) or (b), that flight must be attributed to the aeroplane owner who must then be considered to be the aeroplane operator of that flight.

(4) If requested by the Regulator, aeroplane owners identified under paragraph (3)(c) must provide all information necessary to identify the actual aeroplane operator of a flight.

(5) The aeroplane operator may, by contract, delegate the administrative requirements of this Order to a third party, as long as the delegation is not to the same entity as the verification body. Liability for compliance must not be delegated.

(6) Nationality and registration marks, referred to in paragraph (3)(b), are defined in paragraph 1, Part 2 of Schedule 4 to the Air Navigation Order 2016(4).

Meaning of Regulator

10.—(1) Subject to paragraph (2) and article 17, the Regulator of an aeroplane operator who has been attributed to the United Kingdom under article 8(1) is—

- (a) the Environment Agency(5), where the aeroplane operator —
 - (i) has its registered office or is resident in England, or
 - (ii) does not have a registered office or is not resident in the United Kingdom,
- (b) the NRW, where the aeroplane operator has its registered office or is resident in Wales,
- (c) the SEPA where the aeroplane operator has its registered office or is resident in Scotland,
- (d) the chief inspector, where the aeroplane operator has its registered office or is resident in Northern Ireland.

(3) The reference to Item 7 is based on the ICAO model flight plan form contained in Appendix 2 of ICAO Procedures for Air Navigation Services - Air Traffic Management (Doc 4444) which is available from the ICAO website at www.icao.int. For a hard copy contact the ICAO E-Commerce and Publications Sales Unit at International Civil Aviation Organisation (ICAO), 999 Robert-Bourassa Boulevard, Montreal, Quebec H3C 5H7, Canada (telephone +1 514-954-8219 and e-mail sales@icao.int).

(4) *S.I. 2016/765*, to which there are amendments not relevant to this Order.

(5) The Environment Agency was established by section 1 of the Environment Act 1995 (c. 25).

(2) For an aeroplane operator who is administered as an aircraft operator under the UK ETS Order in a scheme year, the Regulator is the regulator specified in that Order.

Regulator tasks

11.—(1) A Regulator must approve an aeroplane operator's compliance on the basis of satisfactory evidence that the aeroplane operator meets requirements that are at least equal to the applicable standards specified in this Order.

(2) A Regulator must, by 30th October in each scheme year, provide the Secretary of State with a list of verification bodies accredited in the part of the United Kingdom for which it is responsible under article 10 containing the required information described in Schedule 5, Table 3.

(3) The Secretary of State must submit to ICAO a list of verification bodies which are accredited in the United Kingdom containing the required information described in Schedule 5, Table 3, and in accordance with the relevant timeline set out in Schedule 1. The Secretary of State may submit updates to this list to ICAO on a more frequent basis.

Record keeping

12.—(1) Each aeroplane operator must keep records relevant to the requirements of this Order for a period of 10 years.

(2) The Regulator of an aeroplane operator must keep records relevant to that aeroplane operator's CO₂ emissions per State pair during 2019 and 2020 in order to calculate each aeroplane operator's offsetting requirements during the 2030-2035 compliance periods. Those records must be kept for the duration of CORSIA and the 5 years following the end of CORSIA.

Compliance periods and timeline

13. The Secretary of State, and each Regulator and aeroplane operator must comply with the requirements of this Order in accordance with the relevant timeline set out in Schedule 1.

Equivalent procedures

14.—(1) The use, in relation to an aeroplane operator, of equivalent procedures in lieu of the procedures specified in this Order, must be approved by the Secretary of State with the assistance of the Regulator of that aeroplane operator.

(2) Equivalent procedures must demonstrably meet the requirements in Volume IV of Annex 16 to the Chicago Convention.

The CAA

15.—(1) The CAA must provide such assistance and advice as a Regulator may require in connection with any of the Regulator's functions under this Order.

(2) The CAA is entitled to recover from the Regulator a sum equal to any expense reasonably incurred by it in providing the Regulator with assistance or advice under paragraph (1).

CHAPTER 2

Aeroplane operator's change in circumstances

Change in aeroplane operator's attribution to a State

16.—(1) Where—

- (a) an aeroplane operator changes its ICAO Designator, air operator certificate or equivalent, or place of its registered office, and is subsequently attributed to a new State in accordance with paragraph 1.2 of Chapter 1, Part II, Volume IV of Annex 16 to the Chicago Convention, but

- (b) that aeroplane operator is not establishing a new entity or a subsidiary,

this new State must become the State to which the aeroplane operator fulfils its requirements under Volume IV of Annex 16 to the Chicago Convention from the start of the next compliance period.

(2) The aeroplane operator must notify the Regulator of any change described in paragraph (1) within 3 months of the change taking effect.

(3) An aeroplane operator with a wholly owned subsidiary aeroplane operator that has its registered office in the United Kingdom can be treated as a single consolidated aeroplane operator liable for compliance with the requirements of Volume IV of Annex 16 to the Chicago Convention, subject to the approval of the Regulator. Evidence must be provided in the aeroplane operator's Emissions Monitoring Plan to demonstrate that the subsidiary aeroplane operator is wholly owned.

Change in aeroplane operator's registered office within the United Kingdom

17.—(1) Where—

- (a) an aeroplane operator attributed to the United Kingdom under article 8(1) with a registered office or place of residence in the area of a Regulator, in a scheme year, changes the address of its registered office or place of residence to the area of a different Regulator (“R”), and
- (b) that aeroplane operator's registered office or place of residence is in the area of R at the end of the scheme year,

R is the Regulator of that aeroplane operator from the beginning of the next compliance period.

(2) Where—

- (a) an aeroplane operator which did not have a registered office or place of residence in the United Kingdom at the beginning of a scheme year acquires a registered office or place or residence in the United Kingdom in the course of that period, and
- (b) at the end of that scheme year that registered office or place of residence is in the area of a Regulator (“S”),

S is the Regulator of that aeroplane operator from the beginning of the next compliance period.

(3) The aeroplane operator must notify the Regulator of any change described in paragraphs (1) and (2) within 3 months of the change taking effect.

(4) In this article, “area” in relation to a Regulator, means—

- (a) in respect of the Environment Agency, England,
- (b) in respect of the NRW, Wales,
- (c) in respect of the SEPA, Scotland, and
- (d) in respect of the chief inspector, Northern Ireland.

CHAPTER 3

Applications, notices, etc.

Submission of applications and notices to Regulators

18.—(1) This article applies to an application, notice or report submitted to a Regulator under this Order or under an Emissions Monitoring Plan.

(2) An application, notice or report—

- (a) must be in writing, and
 - (b) unless the Regulator agrees otherwise in writing, must be made on a form provided by the Regulator for that purpose.
- (3) The Regulator must set out in the form—
- (a) the information required by the Regulator to determine the application, or
 - (b) the matters required to be included in the notice or report.
- (4) Unless the Regulator agrees otherwise in writing—
- (a) the form must be submitted to the Regulator electronically and, if the form specifies an email address for submission, to that address, or
 - (b) if the form is provided by the Regulator for submission through a website, the form must be submitted through the website and in accordance with any instructions given for completion and submission.
- (5) Unless the information has been provided in a previous application made to the Regulator, an application must set out—
- (a) the name, postal address, including postcode, and telephone number of the applicant, and
 - (b) either—
 - (i) an email address for service, or
 - (ii) a postal address, including postcode, in the United Kingdom for service.
- (6) Subject to paragraph (7), an application must be accompanied by the charge for the application set out in the charging scheme published under article 43.
- (7) Where an application is submitted electronically, the charge may be sent to the Regulator separately from the application; and in that case, for the purposes of this Order, the application must be treated as not being received by the Regulator until the charge is also received.
- (8) An application may be withdrawn at any time before it is determined.
- (9) A Regulator may, by notice to an applicant, require the applicant to provide such further information specified in the notice, within the period specified, as the Regulator may require in order to determine the application.
- (10) For the purposes of this Order, the application must be treated as being withdrawn if—
- (a) the applicant fails to provide that information —
 - (i) before the end of that period, or
 - (ii) on or before such later date as may be agreed with the Regulator, and
 - (b) the Regulator gives notice to the applicant that the application is treated as having been withdrawn.

Determination of applications by Regulators

19.—(1) Where an application under this Order is made to a Regulator in accordance with the requirements of this Order, the application must be determined by the Regulator within—

- (a) the timescales set out in Schedule 1, where relevant, or
 - (b) where Schedule 1 does not apply—
 - (i) the period of 2 months beginning with the date on which the application is received, or
 - (ii) such longer period as may be agreed in writing with the applicant.
- (2) For the purposes of paragraph (1)—

- (a) an application is determined when notice of the determination is given to the applicant by the Regulator, and
 - (b) in calculating the period of 2 months, no account must be taken of any period beginning with the date on which a notice under article 18(9) is given to the applicant and ending with the date on which the applicant provides the information specified in the notice.
- (3) Where the Regulator fails to determine an application before the end of the period referred to in paragraph (1)—
- (a) the applicant may give to the Regulator notice that the applicant treats the application as having been refused, and
 - (b) if such notice is given the application must be treated as having been refused at the end of that period.

Service of notices given by the Regulator

- 20.**—(1) This article applies to a notice given under this Order by the Regulator.
- (2) The notice must be in writing.
- (3) The notice may be given to a person in any of the following ways—
- (a) by delivering it to the person,
 - (b) by sending it to a postal or email address provided by the person for the purpose of the service of notices and not withdrawn for that purpose,
 - (c) by leaving it at the person’s proper address,
 - (d) by sending it by post or electronic means to the person’s proper address,
 - (e) if the person is a body corporate, by giving it to the secretary or clerk of the body in accordance with any of sub-paragraphs (a) to (d), or
 - (f) if the person is a partnership, by giving it to a partner or a person having the control or management of the partnership business in accordance with any of sub-paragraphs (a) to (d).
- (4) In this article, “proper address” means—
- (a) in the case of a body corporate—
 - (i) the registered or principal office of the body, or
 - (ii) the email address of the secretary or clerk of the body provided by that body for the purpose of service of notices and not withdrawn for that purpose,
 - (b) in the case of a partnership—
 - (i) the principal office of the partnership, or
 - (ii) the email address of the partner or person having control or management of the partnership business provided by that partnership for the purpose of service of notices and not withdrawn for that purpose, or
 - (c) in any other case, the person’s last known address, including an email address provided by that person for the purpose of service of notices and not withdrawn for that purpose.
- (5) For the purposes of paragraph (4), where a body corporate registered outside the United Kingdom, or a partnership established outside the United Kingdom, has an office in the United Kingdom, the principal office of the body corporate or partnership is its principal office in the United Kingdom.

(6) For the purposes of paragraph (4)(c), where the person is an aeroplane operator, the proper address includes an address derived from information supplied by Eurocontrol(6).

(6) Eurocontrol is the intergovernmental body established by the International Convention Relating to Co-operation for the Safety of Air Navigation of 13th December 1960 (the Eurocontrol Convention).