
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 8(1) and 23(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16), in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of aviation safety. None of the changes being made alter the technical requirements and standards established by the legislation.

Part 1 covers citation and commencement.

Part 2 amends domestic subordinate legislation. It makes a range of corrections to the Air Navigation Order 2016 (S.I. 2016/765), as set out in Schedule 1, and a small number of corrections to the Civil Aviation Authority Regulations 1991 (S.I. 1991/1672).

Part 3 amends principal EU Regulations. In particular, it corrects Regulation (EU) No 2018/1139 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (known as “the Basic Regulation”) in the following ways: to confer functions exercised by the Commission and by the European Aviation Safety Agency (“EASA”) on the Secretary of State and on the Civil Aviation Authority (“the CAA”); to amend provisions on the relationship between Member States and with EASA, as the United Kingdom will no longer be a Member State and those relationships will no longer be fit for purpose for the United Kingdom from exit day; and to change references in territorial scope provisions so as to refer to the United Kingdom (rather than to “the territory to which the Treaties apply” etc). Amongst other things, amendments made by these Regulations will confer powers of the European Commission to adopt delegated legislation on the Secretary of State, thereby enabling the Secretary of State to make regulations to introduce new technical requirements, or to amend existing technical requirements contained in Commission Regulations adopted before exit day. The Secretary of State is also empowered to amend certain technical elements, mainly in the Annexes to the Basic Regulation, where this is justified by technical, operational or scientific developments or by safety evidence.

Other principal EU Regulations amended by Part 2 are: Regulation (EEC) No 3922/91 (on technical harmonization); Regulation (EC) No 2111/2005 (on the banned operator list); Regulation (EU) No 996/2010 (on accident investigation); and Regulation (EU) No 376/2014 (on occurrence reporting).

Part 4 amends various EU implementing Regulations adopted by the European Commission. The Commission Regulations corrected in Chapters 1 to 8 of Part 3 were made under predecessor legislation to the Basic Regulation, and relate to subject matter detailed in that Regulation. Chapter 9 of Part 4 amends Commission Implementing Regulation (EU) No 2015/1018 (on the list of classifying occurrences), which was made under Regulation (EU) No 376/2014.

Part 5 introduces Schedules 2, 3 and 4, which provide respectively for: (i) revocation of retained EU implementing Regulations that are no longer required in relation to the United Kingdom from exit day; (ii) savings and transitional arrangements; and (iii) amendments to Regulation (EC) No 80/2009 (on computerised reservation systems) which are consequential upon corrections made to Regulation (EC) No 2111/2005.

A full impact assessment has not been produced for this instrument, as no significant impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.