

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT CIVIL AVIATION (INSURANCE)  
(AMENDMENT) (EU EXIT) REGULATIONS 2018

*Wednesday 17 October 2018*

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**Sunday 21 October 2018**

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**The Committee consisted of the following Members:**

*Chair:* GRAHAM STRINGER

- |   |  |
|---|--|
| † Cowan, Ronnie ( <i>Inverclyde</i> ) (SNP)                                     | † Shah, Naz ( <i>Bradford West</i> ) (Lab)                       |
| † Donelan, Michelle ( <i>Chippenham</i> ) (Con)                                 | Sheerman, Mr Barry ( <i>Huddersfield</i> ) (Lab/Co-op)           |
| Flint, Caroline ( <i>Don Valley</i> ) (Lab)                                     | † Tomlinson, Michael ( <i>Mid Dorset and North Poole</i> ) (Con) |
| † Foxcroft, Vicky ( <i>Lewisham, Deptford</i> ) (Lab)                           | † Turner, Karl ( <i>Kingston upon Hull East</i> ) (Lab)          |
| † George, Ruth ( <i>High Peak</i> ) (Lab)                                       | † Villiers, Theresa ( <i>Chipping Barnet</i> ) (Con)             |
| † Heapey, James ( <i>Wells</i> ) (Con)  | † Watling, Giles ( <i>Clacton</i> ) (Con)                        |
| † Moore, Damien ( <i>Southport</i> ) (Con)                                      | † Williamson, Chris ( <i>Derby North</i> ) (Lab)                 |
| † Morris, Anne Marie ( <i>Newton Abbot</i> ) (Con)                              | Nina Foster, <i>Committee Clerk</i>                              |
| † Norman, Jesse ( <i>Parliamentary Under-Secretary of State for Transport</i> ) | † <b>attended the Committee</b>                                  |
| † Seely, Mr Bob ( <i>Isle of Wight</i> ) (Con)                                  |  |

## Eighth Delegated Legislation Committee

Wednesday 17 October 2018

[GRAHAM STRINGER *in the Chair*]

### Draft Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018

2.30 pm

**The Parliamentary Under-Secretary of State for Transport (Jesse Norman):** I beg to move,

That the Committee has considered the draft Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Stringer. Following the UK's decision to leave the European Union in the 2016 referendum, the Government have been working to develop a positive future relationship with the EU. As part of that, the Department for Transport has undertaken a significant amount of work with respect to the withdrawal negotiations themselves and to prepare for the range of potential outcomes from those negotiations. The best outcome is for the UK to leave with a deal, and we have put forward a serious and credible proposal for our future relationship with EU colleagues. However, although we remain confident of securing an agreement this autumn, we must make all reasonable plans to prepare for a no-deal scenario. To that extent, as the Department responsible for aviation, we have conducted particularly intensive work to ensure that there continues to be a functioning legislative and regulatory regime for aviation. The legislation is required only in a scenario in which the UK leaves the EU without a deal or an implementation period.

The European Union (Withdrawal) Act 2018 will retain directly applicable EU legislation in UK law on exit day to provide continuity and certainty to industry and consumers, without prejudice to the outcome of the negotiations. Some amendments to the retained EU legislation are required to ensure that the legislation continues to function effectively once the UK has left the EU. These amendments are technical and limited to what is needed for the legislation to continue to function.

We have the third-largest aviation network in the world after those of the United States and China, so the aviation industry is crucial to the UK's economy. There are direct flights to more than 370 international destinations in more than 100 countries, and the aviation sector provides at least £22 billion to the UK economy every year. Ensuring that air carriers and aircraft operators are adequately insured is essential for consumers to be able to benefit from an industry that operates safely and effectively.

EU regulation 785/2004, on insurance requirements for air carriers and aircraft operators, requires carriers and operators to be insured in respect of passengers, baggage, cargo and third parties and against other risks, such as acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion. The amounts for which carriers and operators are required to be insured are measured in special drawing rights—an international reserve asset created by the International

Monetary Fund. The EU regulation also requires carriers and operators to demonstrate their compliance with the minimum insurance requirements set out in the regulation.

Elements of the regulation were developed in the aftermath of the 9/11 terrorist attacks in the United States. Those make provision for exceptional situations in which a failure of the insurance market means that carriers are not able to demonstrate that they are adequately insured in respect of all the risks specified in the regulation.

The draft regulations that we are considering make the changes necessary so that the EU regulations, as retained by the withdrawal Act, continue to function correctly after exit day, alongside the domestic Civil Aviation (Insurance) Regulations 2005, which were made to implement the EU regulation. The withdrawal Act will ensure that the same minimum insurance requirements for air carriers and aircraft operators that apply today continue to apply after exit day. That will mean greater clarity for air carriers and aircraft operators regarding the insurance requirements that they must meet irrespective of the outcome of negotiations with the EU. The draft regulations help to ensure that the UK's regulatory regime after exit continues to make the UK a safe and desirable place for passengers to travel by air.

The changes made by this statutory instrument fall into four categories. The first is those changes that are necessary to reflect the fact that the retained legislation will apply only in the United Kingdom, as opposed to all EU member states. For instance, the SI changes the scope of the retained regulation from

“a Member State to which the Treaty applies”

to “the United Kingdom”. The second type is those changes that are necessary to reflect the fact that EU processes set out in the regulation will not apply to the UK once it has left the EU. For example, the regulation requires member states to submit to the European Commission on request information on the application of the regulation. The SI amends that requirement so that the Secretary of State can request the Civil Aviation Authority to provide that information to him instead of to the European Commission.

The third type of change is to retain flexibility for the UK to adjust the required levels of insurance within the parameters set by the regulation, where such flexibility is currently provided for in the regulation. For instance, article 7 sets out the minimum insurance cover in special drawing rights per accident for aircraft according to mass. The regulation sits alongside requirements contained in multilateral treaties such as the 1999 Montreal convention. The regulation provides that the values in article 7 may be amended where this is required as a result of changes to international treaties. As the EU legislative procedure that enables such amendments will not apply once the UK has left the EU, the SI instead makes provision for the Secretary of State to amend those values by regulations if required as a consequence of changes to international treaties. We are committed to ensuring that these powers are subject to appropriate scrutiny, and have therefore provided that any such regulations made by the Secretary of State must follow the affirmative resolution procedure and be approved by both Houses of Parliament.

Finally, the SI will make two minor technical changes to domestic legislation that implements elements of the EU regulation, to ensure that where such legislation refers to the EU regulation, those references are aligned with the retained EU regulation as amended by the SI.

The SI will be essential to ensure that the EU legislation on insurance requirements for airlines and aircraft operators that will be retained by the withdrawal Act continues to work effectively in the UK from day one of exit. This will provide clarity to the aviation industry, ensuring that the legal requirements that apply in relation to insurance are clear immediately after exit and provide certainty to consumers that air travel in the UK will continue to be desirable and safe.

I hope that colleagues of all parties will join me in supporting the draft regulations. I commend them to the Committee.

2.37 pm

**Karl Turner** (Kingston upon Hull East) (Lab): It is always a pleasure to serve under your chairmanship, Mr Stringer. I will keep my remarks very brief. As the Minister has already outlined, the draft regulations will

make slight changes to EU regulations as they apply to UK law under the withdrawal Act, relating to specific insurance requirements for air carriers and aircraft operators. They are absolutely necessary, and the Opposition support them.

2.37 pm

**Jesse Norman:** I could indulge myself with a substantial discussion of the issues raised, but the hon. Gentleman—my friend on the opposite side of the House—has put his finger firmly on the point, which is that the draft regulations are essential and technical in nature. I am therefore delighted to content myself with inviting colleagues to support them.

*Question put and agreed to.*

2.38 pm

*Committee rose.*

