

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT AIR TRAFFIC MANAGEMENT
(AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

Monday 18 February 2019

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The Committee consisted of the following Members:

Chair: SIR ROGER GALE

- | | |
|---------------------------------------------------------------------------------|------------------------------------------------------------|
| † Campbell, Sir Alan (<i>Tynemouth</i>) (Lab) | † Jones, Mr David (<i>Clwyd West</i>) (Con) |
| † Caulfield, Maria (<i>Lewes</i>) (Con) | Jones, Graham P. (<i>Hyndburn</i>) (Lab) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) |
| † Fysh, Mr Marcus (<i>Yeovil</i>) (Con) | † O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | † Stevens, Jo (<i>Cardiff Central</i>) (Lab) |
| † Harper, Mr Mark (<i>Forest of Dean</i>) (Con) | Timms, Stephen (<i>East Ham</i>) (Lab) |
| † Hayes, Helen (<i>Dulwich and West Norwood</i>) (Lab) | † Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Heappey, James (<i>Wells</i>) (Con) | |
| † Hughes, Eddie (<i>Walsall North</i>) (Con) | Ian Bradshaw, <i>Committee Clerk</i> |
| † Jones, Andrew (<i>Parliamentary Under-Secretary of State for Transport</i>) | † attended the Committee |

Fourth Delegated Legislation Committee

Monday 18 February 2019

[SIR ROGER GALE *in the Chair*]

Draft Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019

4.30 pm

The Chair: Good afternoon. Hon. Members may remove their jackets if they wish to do so, but preferably nothing else—this is not the “Today” programme. [*Laughter.*] There is a clue in the title of the regulations. This is not an opportunity to discuss the whole future of the European Union. We have only an hour and a half, and although I wish to be as facilitating as possible, let us confine ourselves to the contents of the regulations.

The Parliamentary Under-Secretary of State for Transport (Andrew Jones): I beg to move,

That the Committee has considered the draft Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019.

It is always a pleasure to serve under your chairmanship, Sir Roger. The draft regulations are made under the powers conferred by the European Union (Withdrawal) Act 2018 and will be needed if the UK leaves the EU without a deal. This statutory instrument retains the regulatory tools to ensure the continued provision and oversight of air navigation services after the UK leaves the EU and is an essential element of our contingency planning for a no-deal exit. The instrument neither extends nor diminishes regulation; it just ensures continuity.

The draft SI amends single European sky legislation: the four basic regulations that provide the framework for EU air traffic management regulations and the implementing regulations that set out the detailed requirements. As Committee members will have seen from the papers, they are detailed, technical matters, which I will quickly explain.

The implementing regulations cover air traffic management interoperability: the manner in which the UK works with other states to deliver air navigation services; the organisation of airspace; the safety and oversight of air navigation services; new technology and how it is to be used; and a system of performance and economic regulation for air navigation services. The single European sky legislation supports the EU initiative to improve the efficiency of air navigation services while maintaining safety within the European air traffic management system.

The delivery of air navigation services is vital to ensure that congested airspace can be used safely and efficiently. The services regulated by the single European sky legislation support air traffic growth by ensuring the safe separation of aircraft. If services are not provided in an efficient way, it can cause considerable delays to traffic with resultant costs and disruption to airlines and passengers. The instrument will ensure the effective regulation of air traffic management so that the arrangements in the UK continue.

The draft instrument addresses areas where retained EU law will no longer function effectively after leaving the EU by removing the roles of EU bodies that cannot be performed by the UK after exit, and provisions where there is already satisfactory UK legislation. Where possible, roles currently undertaken by the European Commission and EU bodies are being transferred to the Secretary of State or the Civil Aviation Authority; but where they relate to pan-European functions, including air navigation services delivered by more than one state, they are being removed. The instrument includes arrangements to recognise EU-based certifications and authorisations existing immediately before exit day. The certifications and authorisations will be preserved for a maximum of two years, subject to any earlier expiry or termination, providing continuity until another agreement is reached with the EU on such issues.

The single European sky legislation includes a regulatory framework for the development and deployment of new technology and ways of using it: the single European sky air traffic management research and development programme—a mouthful that is abbreviated to SESAR. The EU regulations set up organisations and arrangements in which the UK will no longer be able to participate and which the UK cannot legislate for as a third country. We are, however, retaining requirements for deployment of new technology by UK operational stakeholders, predominantly the UK’s air navigation service provider, NATS—formerly National Air Traffic Services—to ensure interoperability with the EU air traffic management system is retained.

The instrument also ensures that the UK will continue to comply with its international obligations, such as those set out in the Chicago convention on international civil aviation. That is done by retaining the regulations that dictate how we comply with the standards and recommended practices adopted by the International Civil Aviation Organisation under that convention.

As I said, the instrument is an essential element of our contingency planning for a no-deal exit. It makes no changes to the objectives of the EU single European sky regulations. Instead, it maintains the existing regulatory framework of technical requirements for air traffic management to ensure the continued provision of efficient, safe air navigation services, to uphold the effective regulation of the UK air traffic management system, and to maintain interoperability between the UK and the EU after the UK has left the EU.

Hon. Members may be interested to know that the devolved Administrations and NATS have been consulted on the statutory instrument and are happy for it to proceed. I commend it to the Committee.

4.36 pm

Karl Turner (Kingston upon Hull East) (Lab): It is always an absolute pleasure to see you in the Chair, Sir Roger, and a privilege to serve under your chairmanship. I do not intend to detain the Committee long.

As the Minister said, the instrument makes changes to the EU-derived retained single European sky legislation, which arises as a result of the UK leaving the European Union. It will ensure the regulatory framework for air traffic management and the continued provision of air navigation services when we leave the EU. It is vital that the ATM regulatory framework is in place when we leave the EU, and the industry wants it to continue, so we support the instrument.

The big fear for the aviation sector is that we crash out without a deal. The EU proposes in the event of no deal to cap the number of movements between the UK and the EU27, which would be a crushing blow for our aviation sector. A large portion of funding for the single European sky project, SESAR, comes from the EU. As the Minister knows, some of the committed projects, to which millions of pounds of funding have already been committed, run up to 2024.

Can the Minister reassure the Committee that in the event of no deal, all funding commitments will be honoured by the Treasury so that the airports and other parties carrying out such projects can continue to do so with confidence? Does he agree that a no-deal Brexit would be a disaster for the aviation sector? What discussions has he had with his EU counterparts about the impact of no deal?

My hon. Friend the Member for Middlesbrough (Andy McDonald), the shadow Secretary of State, is currently in the main Chamber asking an urgent question about the collapse of Flybmi over the weekend. As the Minister knows, Flybmi has said that Brexit uncertainty added to its collapse. The Secretary of State cannot be trusted, so will the Minister do the right thing for the aviation sector and tell the Prime Minister that she must take no deal off the table?

4.38 pm

Brendan O'Hara (Argyll and Bute) (SNP): I will detain the Committee for even less time than the hon. Member for Kingston upon Hull East, who was absolutely right when he said that we live in hope—indeed, we expect—that the UK will not leave the European Union without a deal. We have to be prepared, however, for that catastrophic eventuality, so we too will not oppose the statutory instrument.

The consequences for the UK's aviation industry of a no-deal exit from the European Union are unthinkable. I fully support what the hon. Gentleman said to the Minister about ensuring that no deal is taken off the table, even at this late stage, because it would have catastrophic consequences for the aviation industry and beyond.

I have looked through the explanatory memorandum released by the Government, and I have a couple of questions for the Minister. I appreciate that the Government have had regular engagement, but from what I can see they have not consulted specific stakeholders other than the CAA. Why is that the case? Are they satisfied that they have taken every precaution and spoken to every stakeholder in depth and at length in putting the SI together?

When was the statutory instrument published in draft form on the legislation.gov.uk website? Does the Minister know how many people viewed it? What changes, if any, were made to it based on the feedback that was received?

4.40 pm

Andrew Jones: I thank hon. Members for their consideration of the instrument and their questions, which I will try to answer.

On the SESAR funding, if there is a no-deal exit, the Government will underwrite what would have been paid to the UK under the current arrangements. That provides certainty and continuity for those involved.

Our understanding is that the European Parliament does not want to see a capacity freeze on flights to and from the EU. That would be very bad for business. The Commission has put forward an idea that has not been met with much warmth from the European Parliament. We will continue to monitor the situation, but it looks likely that there will not be a capacity freeze. Obviously, that is very positive.

No deal: should it be taken off the table? We have had quite a number of discussions about that in Delegated Legislation Committees and the Chamber, and it is pointless to revisit them. The way to avoid no deal is, of course, to vote for a deal. There is a deal on the table to be voted for. The Prime Minister has said on a number of occasions that that it is not possible to take no deal off the table, for reasons that have been rehearsed.

I mentioned in my remarks that the devolved Administrations, NATS and other stakeholders have been consulted. There has been engagement in confidence with the relevant stakeholders. Ministers and officials have had regular engagement with the aviation industry, air navigation service providers and airspace users through meetings, workshops on EU exit and our long-established stakeholder forums. A number of issues relating to the UK's withdrawal from the EU have been addressed, including plans for making this secondary legislation to ensure the statute book continues to function irrespective of the outcome of negotiations. There has been support for continuity of the regulatory framework among stakeholders, as the hon. Member for Kingston upon Hull East said. It is in everybody's interest to ensure smooth continuity so that this important sector can continue to operate. We work closely with the CAA on all aviation matters, including preparation for EU exit. That work and the consultations will continue.

I think that answers hon. Members' questions. I close by saying that this is an important SI to land, because we need to prepare for every eventuality, including a no-deal scenario. The instrument is essential to ensure that we have an effective regulatory framework for air traffic management in the UK from exit day. I commend the regulations to the Committee.

Question put and agreed to.

4.43 pm

Committee rose.

