

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT AIRPORTS SLOT ALLOCATION  
(AMENDMENT) (EU EXIT) REGULATIONS 2021

*Tuesday 12 January 2021*

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

*Chair:* † DAME ANGELA EAGLE

Anderson, Fleur (*Putney*) (Lab)  
 Byrne, Liam (*Birmingham, Hodge Hill*) (Lab)  
 † Courts, Robert (*Parliamentary Under-Secretary of State for Transport*)  
 † Fletcher, Colleen (*Coventry North East*) (Lab)  
 Grady, Patrick (*Glasgow North*) (SNP)  
 Grundy, James (*Leigh*) (Con)  
 † Hughes, Eddie (*Walsall North*) (Con)  
 Jardine, Christine (*Edinburgh West*) (LD)  
 † Kane, Mike (*Wythenshawe and Sale East*) (Lab)  
 Lewell-Buck, Mrs Emma (*South Shields*) (Lab)  
 Longhi, Marco (*Dudley North*) (Con)

† Merriman, Huw (*Bexhill and Battle*) (Con)  
 Mohindra, Mr Gagan (*South West Hertfordshire*) (Con)  
 Saxby, Selaine (*North Devon*) (Con)  
 † Tomlinson, Michael (*Lord Commissioner of Her Majesty's Treasury*)  
 Vickers, Matt (*Stockton South*) (Con)  
 Williams, Craig (*Montgomeryshire*) (Con)  
 Bradley Albrow, *Committee Clerk*  
 † **attended the Committee**

## Fourth Delegated Legislation Committee

Tuesday 12 January 2021

[DAME ANGELA EAGLE *in the Chair*]

### Draft Airports Slot Allocation (Amendment) (EU Exit) Regulations 2021

2.30 pm

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

That the Committee has considered the draft Airports Slot Allocation (Amendment) (EU Exit) Regulations 2021.

It is a pleasure to serve under your chairmanship today, Ms Eagle—although I think it is in fact Dame Angela, so may I congratulate you on behalf of the Committee on that well-deserved and significant achievement? I will also just note at the outset, on behalf of the Committee—and, I suspect, the whole House—what a tragedy it is for us all to have heard of the recent Sriwijaya Air crash in Indonesia. My deepest sympathies, and I am sure those of the Committee and the whole House, go out to the families and friends of all those involved.

These draft regulations will be made under the powers confirmed by the European Union (Withdrawal) Act 2018, and they amend provisions for the EU airport slot regulation 95/93, which is also retained by the same Act and, by waiving the rule that in practice requires airlines to use their airport slots for 80% of the time, provides them with relief from the impact of covid-19 on passenger demand.

Regulation 2020/459 was adopted to amend the slots regulation as a result of the covid-19 outbreak, to provide airlines with relief from the 80:20 or “use it or lose it” rule. Under ordinary circumstances, the 80:20 rule mandates that, provided an airline has used its airport slots at least 80% of the time in the preceding season, be that winter or summer, it is entitled to those slots in the upcoming equivalent season. That helps to encourage efficient use of scarce airport capacity, while allowing airlines a degree of flexibility in their operations.

Owing to the significant impact of covid-19 on demand, in March last year airport co-ordinators were instructed, when determining slot allocations for the upcoming season under the 80:20 rule, to consider slots as having been operated whether or not they were actually used. This provides airlines with legal certainty that they will be able to retain their slots, even if not operated, and helps to mitigate the commercial impacts of covid-19 on the industry; otherwise, airlines might have opted to incur the financial cost of operating flights at low load factors merely to maintain and retain those slots. As the Committee will realise, this also supports sustainability by reducing the likelihood of needless aviation emissions from near-empty aircraft.

The amendments to the slots regulation entered into force on 30 March 2020 and became applicable retrospectively from 1 March until 24 October 2020. The amendments introduced by EU regulation 2020/459 also granted

delegated powers to the Commission until 2 April 2021 to extend the period during which the slots allocated should be considered as having been operated by the requested airline. Those delegated powers may be exercised where the Commission finds, supported by Eurocontrol figures and best available scientific data, that the reduction in air traffic levels is persisting as a result of the covid-19 outbreak. That delegated power was used by the Commission to extend relief to airlines beyond 24 October 2020 to 27 March 2021.

The draft instrument we consider today applies to England, Scotland and Wales and will transfer that delegated power to the Secretary of State, exercisable until 2 April 2021. Aerodromes are a devolved matter in relation to Northern Ireland and, as there are currently no slot co-ordinated airports in Northern Ireland and the power to waive the 80:20 rule is only exercisable until 2 April 2021, the Northern Ireland Executive have agreed that it is not necessary for this instrument to extend to or apply in relation to Northern Ireland.

In terms of the detail of this statutory instrument, the instrument is subject to the affirmative procedure because it creates or amends a power to legislate. The most significant amendment being made to the slots regulation provides the Secretary of State with the power to grant further relief to airlines if the reduction in air traffic caused by the covid-19 pandemic were to continue. The power is intended only to deal with the impacts of the pandemic, and so was given to the Commission for a limited duration only.

In order to transfer the power, the term “Commission shall adopt delegated acts in accordance with Article 12a to” is replaced with

“Secretary of State may by regulations”,

thereby enabling the Secretary of State to extend the period during which the UK airports slot co-ordinator, when determining slot allocation for the upcoming season, is to consider slots as having been operated whether or not they were actually used. This must of course be based on the relevant data on passenger demand and scientific data on the impacts of covid-19.

Other changes made to the regulation are mostly minor and technical, but none the less important. First, for example, the phrase

“which is the network manager for the air traffic network functions of the single European sky”

is replaced with “or other relevant data”, to enable the Secretary of State to take into account data from other sources as well as from Eurocontrol, such as from the National Air Traffic Services.

Secondly, the measure clarifies that the Secretary of State’s power to make regulations to extend the relevant period may not be exercised after 2 April 2021, which is the same limit as on the Commission’s power. Therefore, as the exercise of the power must be based on data, any further relief provided under the power from the 80:20 rule would likely be for the summer 2021 season only.

This instrument demonstrates that the Government are committed to ensuring a fully functioning regulatory framework for airport slot allocation. It will help ensure airlines can be provided with further relief under the airports slots rules from the impact of covid-19 on passenger demand, if appropriate. I commend the regulations to the Committee.

2.36 pm

**Mike Kane** (Wythenshawe and Sale East) (Lab): It is a pleasure to serve under your chairmanship, Ms Eagle. I, too, congratulate you on your richly deserved honour in the new year's honours list. I was a huge fan of yours long before I came to Parliament, and my time in Parliament has confirmed my opinion that, over many years in the House, you have exercised one of the most forensic minds, either in government or holding Government to account, so it is a real pleasure to congratulate you on your honour.

I concur with the Minister and share my regret on hearing the news of the plane crash in Indonesia at the weekend. My thoughts are with the families of those who lost loved ones. By its nature, aviation is a global industry; people from all over the world will be affected by the crash and we stand in solidarity with them.

I welcome the transposition of the EU regulation into UK law via the instrument before the Committee. It ensures that the current process can continue as it is today, giving certainty to the industry at such a critical time during the pandemic response. Ultimately, with the world slot allocation guidelines having recently been updated, and the UK Government's intention to review slot allocation in the Green Paper on the aviation 2050 strategy, published in December 2018, a wider review of how slot allocation should work in the future will need to be undertaken. I look forward to working with the Minister as he undertakes that work and the review of the role the Government should play in future slot allocation changes.

Realistically, however, aviation is going to be grounded for much of the first quarter. The spring and summer will be truly vital. The industry cannot afford a lost summer, or the chances of failures will become very real. A real focus is needed on extra short-term support, which the Opposition have called for, and on making sure that we have the best possible testing regime in place for when bans are finally lifted.

I welcome the Treasury's business rates relief for airports and ground services. However, that does not make a dent in the side; the entire sector continues to bleed cash—airports, ground handlers and airlines. The Government can and must do more, as promised last year, and announce a robust specific aviation financial deal. The Government must now set out a clear plan for how they expect restrictions can be lifted with the vaccine roll-out, so that the industry can have certainty to rebuild on. Frankly, if we need to come back here and extend the regulations, we will have failed. Hand in glove with that, I also look forward to working with the Minister on airspace modernisation, which will be a vital part of upgrading the analogue infrastructure to the digital age for our aviation industries and give a much-needed boost of confidence to our world-class sector here in the UK.

2.40 pm

**Huw Merriman** (Bexhill and Battle) (Con): My congratulations, Ms Eagle, on becoming Dame Angela. I want to use the opportunity to speak in this Committee because the Select Committee on Transport, of which I am Chair, has looked at the aviation industry and the huge difficulties it has faced arising from the pandemic. Slot allocation is one matter that we looked at with interest.

Focusing specifically on the confines of this Committee and this legislation, I support the legislative change. It is necessary to ensure that we have a smooth transition from EU to UK rule-making. I want to ask the Minister a series of questions that seek to ensure we get the balance right when we use the rules and he may well want to reflect on them and write to me.

In a situation where no passengers are flying, the financial situation with airlines is incredibly precarious and our carbon footprint is too large, it is right that it would be ludicrous to see empty flights going from one airport to another to preserve that slot allocation for an airline. "Use it or lose it" clearly makes no sense when passengers are not going to use it. On the other hand, we know that, prior to the pandemic, there were great issues with competition and new entrants to the market. I am particularly keen to ensure that the airlines cannot use the opportunity, in the event that the market bounces back, to not use their slots because they do not have to "use it or lose it". That stops other entrants coming through to the market.

I provide the Minister with one example from some months previously. It was a tragedy at Gatwick that, at a time when the airport expected to be resuming daily flights over to New York using Virgin, instead of that occurring in May, Virgin announced it was going to move all its operations from Gatwick to Heathrow. However, Virgin did not relinquish its slots, despite making it clear it did not see itself being at Gatwick for some years to come. That gave Gatwick great cause for concern at a time when, for example, the Hungarian airline Wizz Air was looking to expand but there were no slots remaining at Gatwick. That is a good example of how the "use it or lose it" rule was helpful for competition, because it kept the airlines on their toes. If they were not going to use their slot, it would be taken away from them. With this rule set in the regulations, that does not occur. It is important that the Minister ensures the flexibility is there and that the rules are only put in place for a short period so we can assess the market and if it has returned and airlines are sitting on slots they could be using but are not because it is economically advantageous for them to use elsewhere, that they not be allowed to do so.

I have four questions for the Minister. First, to give the airlines and the airports the certainty they need as to when the powers are going to be utilised now that they will reside with the Secretary of State, when will the Minister look to utilise the new powers to determine the rule set beyond March 2021 when they expire? It is vital for the month of January that decisions can be made for the summer period. I hope the Secretary of State will look to utilise those powers this month.

Secondly, will the Government look at the new rule set devised by the International Air Transport Association, the Airport Council International and the Worldwide Airports Coordinators Group? Interestingly, those rules changed from the 80:20 split to a 50:50, therefore, fewer—but still some—flights required. There is also an additional caveat that, where there are national Government covid restrictions on the airlines, that can count towards the 50%. That strikes me as rather bureaucratic at a time when the flights clearly are not there. However, I say to the Minister that perhaps in time to come, rather than 80:20, we look at a 50:50 balancing act, which might give more flexibility and more of a nod to competition.

[*Huw Merriman*]

Thirdly, will the Government ensure that the rules balance the need to conserve money and carbon with the need to ensure airlines cannot sit on slots that other airlines could utilise in the event that the market bounces back? The example of Virgin at Gatwick is a good one as far as that is concerned. I should say to the Minister, having had conversations with his predecessor, that there was real commitment by this Government to ensure that we allow new entrants, remove the barriers and get more competition into the marketplace. It is certainly the case that BA has a dominant position at Heathrow; that cannot be healthy for competition, and the Conservative party has always stood absolutely for competition.

Finally, will the rules cover all airports, or just those within the congested airports, known as the co-ordinated airports? As the Minister stated, there is no such airport in Northern Ireland, and the rules are applicable to just a small number. I would certainly be keen for flexibility in terms of short haul versus long haul, with an expectation the latter will not bounce back as fast as the former. My main appeal to the Minister is to get the rule set used as soon as we can, ensure it is absolutely flexible so that the Government can pivot as the airline and aviation industry pivots as well, and strike a balance between not wasting carbon and money for the airlines and, at the same time, giving the airports a little more help to ensure that there is competition and business for their slot allocations.

2.46 pm

**Robert Courts:** I thank hon. Members for their consideration of the draft regulations and for their helpful and constructive points. To respond to the points made by the hon. Member for Wythenshawe and Sale East and my hon. Friend the Member for Bexhill and Battle, further slot policy will be considered in the round with any future review of aviation policy.

The hon. Member for Wythenshawe and Sale East quite rightly spoke about aviation recovery and the bounce back; I entirely agree and will work with him to ensure we see that as soon as possible. The testing regime is a big part of that. We continue to work with the aviation sector to ensure it can bounce back as fast as possible. I refer to the work of the global travel taskforce and the recently announced test to release policy, which is a major step forward. I commit to bringing forward any further alleviation and assistance that we can as soon as possible, and will continue to work with him and the sector to ensure that happens. Likewise, I look forward to working with him on airspace modernisation, which is a vital part of restructuring the industry and the sector for the future. I am grateful to the hon. Gentleman for raising those issues.

I am also grateful to my hon. Friend the Chairman of the Transport Committee for his thoughtful and constructive points. I look forward to considering them in detail with him, but I will endeavour to give him some answers to his four questions at this stage. I hope he will forgive me if I do not give quite as much detail as he would like, but I will of course write to him if he requires some further detail.

My hon. Friend's first question related to when the Government will look to utilise the new powers. A targeted consultation is taking place to inform the decisions. It will close on 20 January, with the decision to be made thereafter. On his second question about whether the Government will look at the new rule set devised by IATA and other colleagues with regard to the 80:20 to 50:50 split, we are aware of that change and at present we are consulting with all relevant partners as to the steps we will take for next summer.

On my hon. Friend's third question about whether the Government will ensure that that the rules balance the need to conserve money and carbon with the need to ensure airlines cannot sit on slots, again, we continue to engage with airlines and airports to ensure that all views are captured and will be considered as we look to consider future aviation policy. My hon. Friend's fourth question related to whether the rules will cover all airports or just those within the congested airports known as co-ordinated airports. The further relief will apply to those that are slot co-ordinated. He also asked about time limits; as he is aware, this is a time-limited SI, and I repeat my comments about future slot policy reform in due course. I hope that is helpful, and I can engage with any more detail if he would like.

With regard to this SI, I conclude by reiterating its importance to ensuring that our statute book continues to function correctly after the end of the transition period, which is exactly what we will achieve today by passing it. The regulations will make the changes necessary to ensure that the airlines continue to have the relief from the impact of covid-19 by relaxing the 80:20 slot usage rule, and that that continues to function properly in the future. Without that, we would not have the flexibility on slot usage to deal with the impacts of covid-19 on slot co-ordinated airports, were that required. I am grateful to the Committee for considering the regulations today and I hope hon. Members will join me in supporting them.

*Question put and agreed to.*

2.50 pm

*Committee rose.*