

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Seventh Delegated Legislation Committee

AIR SERVICES (COMPETITION) (AMENDMENT  
AND REVOCATION) (EU EXIT) REGULATIONS 2019

*Monday 7 October 2019*

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**Friday 11 October 2019**

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

*Chair:* PHIL WILSON

- |   |   |
|---|---|
| † Aldous, Peter ( <i>Waveney</i> ) (Con)                                      | Murray, Ian ( <i>Edinburgh South</i> ) (Lab)                  |
| † Brown, Alan ( <i>Kilmarnock and Loudoun</i> ) (SNP)                         | † Perkins, Toby ( <i>Chesterfield</i> ) (Lab)                 |
| † Caulfield, Maria ( <i>Lewes</i> ) (Con)                                     | † Pursglove, Tom ( <i>Corby</i> ) (Con)                       |
| † Charalambous, Bambos ( <i>Enfield, Southgate</i> ) (Lab)                    | Rimmer, Ms Marie ( <i>St Helens South and Whiston</i> ) (Lab) |
| † Chishti, Rehman ( <i>Gillingham and Rainham</i> ) (Con)                     | † Stevenson, John ( <i>Carlisle</i> ) (Con)                   |
| Elliott, Julie ( <i>Sunderland Central</i> ) (Lab)                            | Streeting, Wes ( <i>Ilford North</i> ) (Lab)                  |
| † Fabricant, Michael ( <i>Lichfield</i> ) (Con)                               | † Turner, Karl ( <i>Kingston upon Hull East</i> ) (Lab)       |
| † Heaton-Harris, Chris ( <i>Minister of State, Department for Transport</i> ) |   |
| † Herbert, Nick ( <i>Arundel and South Downs</i> ) (Con)                      | Yohanna Sallberg, <i>Committee Clerk</i>                      |
| † Metcalfe, Stephen ( <i>South Basildon and East Thurrock</i> ) (Con)         | † <b>attended the Committee</b>                               |

## Seventh Delegated Legislation Committee

Monday 7 October 2019

[PHIL WILSON *in the Chair*]

### Air Services (Competition) (Amendment and Revocation) (EU Exit) Regulations 2019

4.30 pm

**The Minister of State, Department for Transport (Chris Heaton-Harris):** I beg to move,

That the Committee has considered the Air Services (Competition) (Amendment and Revocation) (EU Exit) Regulations 2019 (S.I. 2019, No. 1224).

It is a pleasure to serve under your chairmanship, Mr Wilson. Obviously, the Government are working with energy and determination to secure a new deal with the European Union. However, if we have to leave without a deal, the Government are committed to preparing for that outcome. As the Department responsible for civil aviation, the Department for Transport has already conducted intensive work to ensure that there continues to be a functioning legislative framework and an effective regulatory regime for that critical part of the UK economy. In fact, as we leave the European Union, a successful UK aviation sector will be an essential part of a successful global Britain. This new instrument will ensure that the legislative framework and regulatory regime for the sector remains on a well-functioning basis.

The Government have given careful consideration to the appropriate procedure for progressing this instrument. For reasons that I will briefly outline, it is important to have the instrument in place by exit day. That is why we have gone for the “made affirmative” procedure, which will ensure that outcome while allowing for parliamentary scrutiny.

The regulation amends Regulation (EU) 2019/712, which sets out an approach to safeguarding competition in air transport. Fundamentally, this instrument ensures that, when responding to anti-competitive practices, the UK will have the same powers to protect UK airlines as will be available to the EU to protect EU airlines. Previously, Regulation (EC) No. 868/2004 provided for redressive measures to be imposed when subsidisation and unfair pricing practices by third-country airlines cause injury to EU airlines. The previous statutory instrument on this subject introduced corrections to that regulation to ensure that it would apply when the UK left the EU.

However, since the extension to the UK’s departure from the European Union, Regulation (EC) No. 868/2004 was repealed and replaced with Regulation (EU) 2019/712. The reason given was that the previous regulation was judged to be ineffective in respect of its underlying general aim of fair competition. For instance, there was a lack of definition of the initiation and conduct of investigations, or the criteria for doing so.

**Michael Fabricant (Lichfield) (Con):** That all makes incredible sense to me, but what discussions has my hon. Friend had with British Airways, easyJet and other major UK carriers regarding this measure, and are they in full support?

**Chris Heaton-Harris:** I have had conversations with the sector, but not with some of the individual airlines that my hon. Friend mentions. In general, the sector is very supportive of the measure coming into UK law.

The new EU regulation provides the European Commission with the power to conduct an investigation when there is prima facie evidence of anti-competitive practices causing, or threatening to cause, injury to European Union air carriers. Areas where discrimination could occur include the allocation of slots, administrative procedures, and the arrangement for the selling and distribution of air services. If such evidence is found, redressive measures can be taken in order to offset any injury. Such measures could include financial duties.

The policy content of the retained regulation will remain substantially unchanged. The changes that are being made are primarily technical and necessary to ensure the correct application of these measures after the UK leaves the EU. As part of those changes, the UK’s Civil Aviation Authority will assume some of the responsibilities previously placed on the European Commission. For instance, it will examine and investigate any complaint of that nature. The Civil Aviation Authority will report its findings to the Department for Transport, where the Secretary of State will take a decision on whether to adopt any redressive measures. Such measures will be adopted by statutory instrument, using the affirmative procedure.

In the event of leaving without a deal, the EU could apply its regulation to the UK or its airlines if they are engaged in practices described in the regulation. The changes made by this SI therefore ensure that, in addition to other countries, EU member states and their airlines will be within the scope of the UK’s investigatory and redressive measures. That will preserve the level playing field from exit day. That is why we have selected the “made affirmative” procedure, which ensures that this important measure can, if required, be in place on 1 November.

Therefore, although obviously we would all like to leave with a deal, this SI will ensure that, in any scenario, the UK and UK airlines will have equivalent access to the types of measures that EU member states and EU airlines can take against anti-competitive actions. I hope that colleagues will join me in supporting the regulations, and I commend them to the Committee.

4.35 pm

**Karl Turner (Kingston upon Hull East) (Lab):** It is always an absolute pleasure to serve under your chairmanship, Mr Wilson. These changes are mainly technical—they change the word “Union” to “United Kingdom”, and the Civil Aviation Authority is also mentioned as a technical change to the relevant authority. The Opposition have no objection to those changes, which we support.

At the outset of his remarks, the Minister said that the Government are working with “energy and determination” to achieve a deal. I suspect that neither of those things are correct and that the Prime Minister is not very determined. He is certainly not being very energetic about achieving a deal—I wish he was.

4.36 pm

**Alan Brown (Kilmarnock and Loudoun) (SNP):** It is a pleasure to serve under your chairmanship, Mr Wilson. Like the shadow Minister, the SNP does not oppose

these technical regulations since they make sense no matter what our views are on Brexit. If it is so important to have these regulations in place by Brexit day, it seems surprising that the SI was tabled during a period when Parliament was originally meant to be prorogued. If this is what we are dealing with, it makes me think that wider no-deal Brexit preparations are in chaos and not that advanced.

The Minister mentioned looking at how slots are handled at airports, and possible measures for investigation at the European Commission. Will he confirm that public service obligation arrangements will still be able to function as they do? For example, will the new Heathrow runway PSOs be in place to protect flights to Scottish airports? Will that still comply with the new regulations?

4.37 pm

**Chris Heaton-Harris:** I thank hon. Members for their contributions. The regulations will have absolutely no impact on PSOs, and the SI has been tabled now

because this is the first opportunity to do so—we would have been first up had we prorogued for the expected period, and the Committee would have sat just a tiny bit later. I assure my friend the hon. Member for Kingston upon Hull East that, as the Prime Minister would say, he is going “like gangbusters” and with energy and determination for a deal, but that is a political point on which we can politely choose to differ. The Committee agrees that the SI is an important, if technical, measure, and that it addresses a number of matters on which we can all concur. I hope that colleagues will join me in supporting the regulations, which I commend to the Committee.

*Question put and agreed to.*

4.39 pm

*Committee rose.*





