

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT AIR TRAFFIC MANAGEMENT
(AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2020

Tuesday 9 June 2020

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The Committee consisted of the following Members:

Chair: JUDITH CUMMINS

- | | |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| † Bhatti, Saqib (<i>Meriden</i>) (Con) | † Mayhew, Jerome (<i>Broadland</i>) (Con) |
| † Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab) | † Rimmer, Ms Marie (<i>St Helens South and Whiston</i>) (Lab) |
| † Courts, Robert (<i>Witney</i>) (Con) | Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) |
| Davies-Jones, Alex (<i>Pontypridd</i>) (Lab) | Stringer, Graham (<i>Blackley and Broughton</i>) (Lab) |
| † Davison, Dehenna (<i>Bishop Auckland</i>) (Con) | Thompson, Owen (<i>Midlothian</i>) (SNP) |
| † Fletcher, Mark (<i>Bolsover</i>) (Con) | † Tomlinson, Justin (<i>Minister for Disabled People, Health and Work</i>) |
| † Holmes, Paul (<i>Eastleigh</i>) (Con) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † Levy, Ian (<i>Blyth Valley</i>) (Con) | † attended the Committee |
| † McCarthy, Kerry (<i>Bristol East</i>) (Lab) | |
| † Maclean, Rachel (<i>Parliamentary Under-Secretary of State for Transport</i>) | |

Third Delegated Legislation Committee

Tuesday 9 June 2020

[JUDITH CUMMINS *in the Chair*]

Draft Air Traffic Management (Amendment Etc.) (EU Exit) Regulations 2020

5 pm

The Chair: Before we begin, I remind Members about the social distancing regulations. Public Health England has assessed that this room can hold 18 people—14 in the main part of the room, and four in the Public Gallery. Spaces that are available to Members are clearly marked. Unmarked spaces must not be occupied. The usual convention of a Government side and an Opposition side is waived on this occasion, so Members may sit anywhere. No members of the general public will be coming, so you may sit anywhere at the back. If you do and you intend to speak, however, either project your voice or ask a colleague to swap seats with you, so that you are near a microphone. Our proceedings are being broadcast over the internet on parliamentlive.tv.

5.1 pm

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

That the Committee has considered the draft Air Traffic Management (Amendment Etc.) (EU Exit) Regulations 2020.

It is a great pleasure to serve under your chairmanship, Mrs Cummins. I understand that it is your first time in this very important role and I am sure that you will do a fantastic job. I welcome the hon. Member for Bristol East to her place on the Front Bench as my opposite number. I look forward to a lot of constructive debate with her.

The draft instrument will be made under the powers conferred by the European Union (Withdrawal) Act 2018 and will be needed at the end of the transition period. As hon. Members will be aware, the Government are committed to ensuring that the UK has a functioning statute book at the end of the transition period. Although the Government continue to work to achieve a positive future relationship with the EU and to reach the best outcome for the UK and the EU, it is our duty to make reasonable preparations for all scenarios, including by ensuring that there is a functioning statute book irrespective of the outcome of the negotiations. The draft instrument is important because it makes changes to the retained EU legislation for air traffic management so that the UK retains the regulatory tools to ensure the continued provision and oversight of air navigation services after we leave the EU.

This statutory instrument is the second set of air traffic management regulations and ensures that the four pieces of EU air traffic management legislation that have come into force since the Air Traffic Management (Amendment Etc.) (EU Exit) Regulations 2019 were made are legally operable. The instrument does that by amending two EU implementing regulations, revoking

one EU implementing regulation and revoking one EU implementing decision. As Committee Members will understand and appreciate, these are detailed technical matters, but it is important to explain briefly what those implementing regulations do.

Implementing regulation 2019/317 and implementing decision 2019/903 both relate to the EU performance and charging scheme for air navigation services for the period of 2020 to '24. Implementing regulation 2017/373 sets out requirements for the safe delivery of air navigation services by providers such as UK NATS and their oversight. Finally, implementing regulation 2019/123 deals with the regulation of network-level air navigation services, which are provided by the intergovernmental organisation Eurocontrol in co-ordination with operators. The delivery of air navigation services is vital to ensure that congested airspace can be used safely and efficiently. The instrument is intended to continue the provision of efficient and safe air navigation services, to ensure the effective regulation of the air traffic management system in the UK, and to maintain interoperability with the EU after the transition period ends.

The instrument makes amendments to retained EU air traffic management regulations to ensure that the statute book continues to function correctly after the end of the transition period. It does that by addressing areas of legal inoperability by removing roles of EU bodies, functions that cannot be performed by the UK after the completion of the transition period, and provisions where there is already satisfactory UK legislation in place. Where possible, roles currently undertaken by the European Commission and EU bodies are being transferred to the Secretary of State for Transport or to 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 makes changes to the retained EU legislation to ensure appropriate national arrangements for the provision and oversight of air navigation services after the UK leaves the EU—for example, for the CAA's oversight of the UK's main air navigation service provider, NATS Holdings. Some of the EU regulations will not work as domestic legislation after the end of the transition period, so they have not been retained.

The EU scheme for the economic and performance regulation of air navigation services is a top-down EU scheme based on targets set at EU level, and it contains numerous roles for EU bodies. The UK had a domestic system of performance and economic regulation under the Transport Act 2000 prior to EU competence. That legislation is still in force, as it is compatible with the EU arrangements and contains other requirements, such as the licence arrangements for the UK's main air navigation service provider, NATS. As a result, the UK will not retain the EU regulations and will instead rely on the Transport Act for the CAA to carry out those duties.

At the time the Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019 were made, Commission implementing regulation (EU) 2017/373 was partially applicable. As the EU regulation became fully applicable on 2 January 2020, it is now necessary to make further amendments to it. Similarly, the instrument amends Commission implementing regulation (EU) 2019/123, which deals with the regulation of network-level air navigation services. It entered into force on 1 January 2020 and was therefore not included in the 2019 regulations.

In summary, all the amendments made in this instrument address areas of legal inoperability by removing roles of EU bodies, functions that cannot be performed by the UK after the end of the transition period, and provisions where there is already satisfactory UK legislation. The approach taken is consistent with that taken in the 2019 regulations. The instrument will ensure the continued provision of efficient, safe air navigation services and the effective regulation of the UK air traffic management system. I commend the instrument to the Committee.

5.7 pm

Kerry McCarthy (Bristol East) (Lab): It is a pleasure to see you in the Chair, Mrs Cummins. I do not intend to take up too much of the Committee's time, which I am sure everyone will appreciate, but I want to place a few things on the record. First, I thank the Minister for the pre-briefing with her civil servants that she offered me earlier today. Particularly with what, on the surface, can seem to be quite obscure statutory instruments, it is always helpful to have access to the same advice as the Minister. I thank the civil servants for taking part in that.

The statutory instrument is not controversial and I do not intend to oppose it, but it is important for the reasons that the Minister outlined. Obviously, air traffic management is an extremely important aspect of the successful and safe operation of the aviation industry, so it is right, now that the UK has left the EU and the end of the transition period looms, that the relevant powers in relation to air traffic management are transferred to the Secretary of State and authorities such as the Civil Aviation Authority and NATS Holdings to ensure that all air traffic flows can safely continue. We might have our own views as to the wisdom of leaving the EU and having to replicate all this or take it back into our hands, but we have probably exhausted that debate, and I do not intend to revisit it, although I cannot promise that I will not at some point in future, particularly as we get towards the end of the year.

The European Union's single European sky legislation successfully enhanced air traffic safety for many years, so I am glad to see a broad continuity in policy throughout these regulations. We certainly support smooth legislative continuity for the aviation industry as the transition period ends.

There was much uncertainty for the sector because of Brexit, but that has obviously been heightened by the ongoing covid-19 crisis and the fact that so many flights have been grounded. The need for certainty and safety in aviation is why we will not oppose this statutory instrument, and why we will try to work with the transport team as much as possible. I do not have the aviation brief; I have the EU brief, and the brief for

things such as decarbonisation of transport, on which the Minister and I have worked closely; I appreciate her doing that. I sent her another letter this afternoon—just to flag that up—about car scrappage. I am sure she looks forward to seeing that in her inbox when she returns to the Department.

At a time when the industry faces such immense economic difficulties because of the ongoing pandemic, it is right that we do not put up any more legislative barriers for the sector. The priority must be providing clarity on the future for the sector post transition, and that is what we are attempting to do today by ensuring that the legislation passes and the responsibilities are transferred away from the European Commission without further hold-up.

As negotiations with the EU continue, albeit far from smoothly—I am sure the Minister will agree there is a lot to get through before the end of the transition period—I hope that the Government ensure that there is close co-operation between the UK and the EU on the research, development and deployment of new air traffic management technologies, regulation and network management functions in future.

Air traffic management and aviation generally is an area where close international co-operation will always be absolutely vital, and the UK's relationship with the European Union can be no exception to that. I thank the Minister, and you, Mrs Cummins, for giving me the opportunity to speak. I very much look forward to working with the Minister in future.

5.12 pm

Rachel Maclean: It is a great pleasure to hear the hon. Lady's points. I appreciate her support for this SI and I welcome the brevity of her points. I absolutely agree with her. There will be other times when I am sure we will have robust yet constructive debates. I agree with her that we want to provide continuity and clarity. We seek an ambitious, open and close relationship on the aviation sector, because we recognise how important that is for our UK industry generally, and for lots and lots of jobs. The sector has been impacted and challenged by the covid crisis. The Government have supported the sector and will continue to do so. I look forward to seeing the hon. Lady's correspondence when I get back to the Department. I also look forward to continued close working. I hope that the Committee has found the sitting informative, and that it will join me in supporting the regulations.

Question put and agreed to.

5.13 pm

Committee rose.

