

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Third Delegated Legislation Committee

## DRAFT AIRPORTS SLOT ALLOCATION (ALLEVIATION OF USAGE REQUIREMENTS) REGULATIONS 2022

*Tuesday 1 March 2022*

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**Saturday 5 March 2022**

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

*Chair:* †PETER DOWD

† Bacon, Gareth (*Orpington*) (Con)  
 † Brennan, Kevin (*Cardiff West*) (Lab)  
 † Cates, Miriam (*Penistone and Stocksbridge*) (Con)  
 † Courts, Robert (*Parliamentary Under-Secretary of State for Transport*)  
 † Elphicke, Mrs Natalie (*Dover*) (Con)  
 Fovargue, Yvonne (*Makerfield*) (Lab)  
 † Greenwood, Lilian (*Nottingham South*) (Lab)  
 Harman, Ms Harriet (*Camberwell and Peckham*) (Lab)  
 Hendrick, Sir Mark (*Preston*) (Lab/Co-op)  
 † Howell, Paul (*Sedgefield*) (Con)

† Hudson, Dr Neil (*Penrith and The Border*) (Con)  
 † Jupp, Simon (*East Devon*) (Con)  
 † Kane, Mike (*Wythenshawe and Sale East*) (Lab)  
 † Mangnall, Anthony (*Totnes*) (Con)  
 † Solloway, Amanda (*Lord Commissioner of Her Majesty's Treasury*)  
 † Thomson, Richard (*Gordon*) (SNP)  
 † Timpson, Edward (*Eddisbury*) (Con)

Nick Taylor, Natalia Janiec-Janick, *Committee Clerks*

† **attended the Committee**

## Third Delegated Legislation Committee

Tuesday 1 March 2022

[PETER DOWD *in the Chair*]

### Draft Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2022

**The Chair:** Before we begin, I remind Members that they are expected to wear face coverings and to maintain distancing as far as possible. Members should send their speaking notes by email to [Hansardnotes@parliament.uk](mailto:Hansardnotes@parliament.uk). Similarly, officials in the Gallery should communicate electronically with Ministers.

9.25 am

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

That the Committee has considered the draft Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2022. It is a pleasure to serve under your chairmanship this morning, Mr Dowd.

The draft regulations will be made, subject of course to the vote of the Committee, under the powers conferred by the Air Traffic Management and Unmanned Aircraft Act 2021 - also known as ATMUA. For sake of brevity, I will refer to it as such from now on. Taking the opportunity of our departure from the European Union, ATMUA created a more flexible set of powers for Ministers to implement slot alleviation measures related to the impacts of covid-19, subject to a vote in both Houses. We are now able to adapt our approach to support the recovery of the UK's aviation sector.

Ordinarily, as all right hon. and hon. Members are aware, airlines must operate slots 80% of the time in order to retain the right to the same slots the following year—this is known as the 80:20 rule or the “use it or lose it” rule. Under ordinary circumstances this helps to encourage efficient use of scarce airport capacity across slot-constrained airports while allowing airlines a degree of flexibility in their operations. The powers provided by ATMUA enable the Secretary of State to provide alleviation from this rule if he is satisfied that there is a reduction in demand due to the Covid-19 pandemic, and that the reduction is likely to persist.

When the pandemic initially struck, the 80:20 rule was fully waived to avoid environmentally damaging and financially costly flights with few or no passengers. Following the UK's departure from the EU, the UK Government chose to extend the waiver of the 80:20 rule that applied in 2020 to cover the summer 2021 season, which lasted until 30 October 2021, through the Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2021. For the winter 2021 season, we used powers granted in ATMUA for the first time to provide a more flexible package of measures that reflected the ongoing recovery of the sector. Recovery, of course, was uncertain, and our focus was on supporting the sector. The measures were generous and exceeded the alleviation package provided by the EU. By allowing

airlines to hand back full series of slots, we gave them legal certainty that they would be able to retain their slots even if not operated. That helped to mitigate some of the commercial impacts of the covid-19 outbreak on the industry; otherwise airlines might have opted to incur the financial costs of operating flights at low load factors merely to retain slots. That also supported sustainability by reducing unnecessary emissions.

Our approach for this season is framed in the context of the 11 February announcement, when we lifted most remaining travel restrictions for the UK. That was due to the success of the vaccine roll-out, as all right hon. and hon. Members will be aware. Covid-19 has been exceptionally difficult for the industry, but lifting the restrictions means that people can now travel abroad and visitors can come to the UK more easily, whether for a holiday, for work or to visit loved ones. We have reopened the country and our slot alleviation plans for the summer season are designed to support that process.

As required by ATMUA, we have determined that a continued reduction in demand is likely to persist, and we consider that further alleviation measures are therefore justified for the summer 2022 season, which runs from 27 March—in about three weeks' time—to 29 October 2022. On 24 January, we published this statutory instrument, setting out the package of measures we propose to put in place to alleviate slot usage requirements for summer 2022. That package was developed following consultation with airports and airlines and after careful consideration of their responses.

As recovery has progressed, and travel restrictions have been lifted, the range of views on what level of alleviation is needed has grown wider: ranging from calls for a full waiver, to support for full reinstatement of the 80:20 rule—in other words, more or less the full spectrum. The package before us prevents airlines from having to choose between operating environmentally damaging empty or near-empty flights or losing their slots where severe travel restrictions remain in place. We are mindful that travel restrictions abroad may remain for some time and that new variants of concern could emerge, so we need to ensure that our rules are flexible enough to handle that. So, what are we doing?

In the draft instrument we are considering today, we are aiming to focus our measures on encouraging recovery, while preventing empty or near-empty flights where severe international travel restrictions remain in place. That includes changing the minimum usage ratio to 70:30, meaning airlines are required to use their slots at least 70% of the time to retain the right to operate those same slots the following year. That ratio is lower than the 80% usage ratio that carriers must meet in normal times, but it is higher than the 50% ratio adopted for the winter season, reflecting our move towards recovery.

The draft regulations include stronger provisions to avoid low-volume flying by expanding the reasons which airlines may use to justify not using slots to include existing covid-19 related restrictions. That will apply where covid-19 related measures, including flight bans, quarantine or self-isolation requirements, are applied at either end of a route and have a severe impact on demand for the route or the viability of the route. Unlike the winter season, that will also apply where restrictions could reasonably have been foreseen, and that protects carriers in markets with long-term restrictions in place.

In addition, there will be a three-week recovery period during which the provisions may still apply following the end of the covid restrictions. That gives airlines a chance to get their flights up and running again. In addition, we will allow earlier applications for justified non-utilisation of slots—JNUS provisions. By this I mean that, if there is an official Government announcement, either domestic or overseas, about the duration of the covid restrictions, where that gives rise to a reasonable expectation that the restrictions will still be in place on the date of operation of the slots—in the future—the carrier will then be able to notify the slot co-ordinator, ACL, that it considers it justified not to use the slots. That is as opposed to having to reapply every three weeks - as is the case at present. That will allow earlier handback of slots to provide other carriers with an opportunity to pick them up, as well as remove some of the administrative burden, and cost thereof, on airlines.

In the winter 2021 season we also made provision for “full series handback”—in other words, allowing an airline to retain rights to a series of slots for the following year if it returned the complete series to the slot co-ordinator for reallocation on or before 7 September. We have decided not to continue full series handback this season, as this was a generous measure that reflected the uncertainty around the winter season. Given the success of the vaccine roll-out, the relaxation of travel restrictions and the more positive demand outlook for summer, we now believe it is the time to move towards normal usage with a strengthened justified non-utilisation provision to provide support in case of severe restrictions. Those measures will cover the summer 2022 scheduling period, from 27 March to 29 October 2022.

The draft instrument being considered today applies to England, Scotland and Wales. Aerodromes are a devolved matter in relation to Northern Ireland and, as there are currently no slot co-ordinated airports in Northern Ireland, the Northern Ireland Executive agreed that it was not necessary for the powers in ATMUA to extend to, or apply in relation to, Northern Ireland. We are currently considering alleviation for winter 2022 and we plan to consult with industry and interested Members in the normal way to inform our policy later this year.

The SI provides necessary relief for the aviation sector for the summer 2022 scheduling period while also protecting against empty or near-empty flights.

I recognise the concerns of Members about airlines operating so-called ‘ghost flights’. Through our strengthened justified non-utilisation provision, we will prevent carriers serving routes in severely restricted markets from having to operate those low-load flights purely to retain their slots, while carriers in open markets will be subject to a minimum usage ratio of 70%. The alternative to that would be to provide unlimited relief, which would allow incumbent airlines to retain unused slots at airports and prevent other carriers from using them. That would have an impact on consumers by restricting competition and airport use as well.

Through the package of measures before the Committee we have aimed to strike a balance between supporting the sector while encouraging recovery and ensuring the efficient use of slots at our airports. I commend this instrument to the Committee.

9.36 am

**Richard Thomson** (Gordon) (SNP): It is a pleasure to serve under your chairmanship, Mr Dowd.

Landing slots are clearly a very scarce but important resource, and it is important that we make sure that they are used efficiently, wisely and fairly. In normal circumstances the 80:20 is a perfectly reasonable way in which to incentivise the market to work as we would hope it would in terms of encouraging competition between airlines, and therefore getting better outcomes for passengers.

We all know of the strictures that we have lived under for past couple of years of the pandemic and we are not unaware, I hope, of the impact that has had on the airline industry, particularly on passenger numbers. Clearly, the introduction of some kind of waiver during that time was the right thing to do, but as we return to a measure of normality it is right that clutch plates, if I could put it that way, begin to re-engage on that incentivisation.

The Minister spoke of the perverse incentives of having too high a ratio, in terms of incentivising ghost flights. None of us wants to see that, because they are a waste of money and resource, and put costs into the system, and of course release harmful emissions into the air in a way that benefits absolutely nobody. We consider it fair and reasonable to introduce a recalibrated ratio to expand flights and to provide enhanced flexibility to allow for legitimate reasons as to why all those airlines slots might not be used. That will ensure that when those slots are not used, there are then legitimate reasons to expand the number of fair and reasonable exceptions that may apply.

Overall, the SNP think that the SI represents a positive move because it helps both the airline industry and the travel market to move back to normality. On that basis, we are happy to lend the SI our support.

9.37 am

**Mike Kane** (Wythenshawe and Sale East) (Lab): It is always a pleasure to serve under your chairmanship, Mr Dowd.

I feel the hot breath of my hon. Friend the Member for Cardiff West on my neck, so happy St David’s day to you all. St. David was canonised by Pope Callixtus II in 1123. I doubt he had to get up at 9.30 to attend one of his synods to discuss airport slots, but genuinely happy St David’s day to everyone.

Around two years ago, the country was paralysed by the coronavirus pandemic, and after a considerable effort to repatriate Brits abroad, the business and leisure market and the aviation industry were effectively grounded. For two years the industry has struggled without a sector-specific deal. The Minister and I have had that discussion previously and we disagree about what the package should have looked like, but we move on today.

I believe that the Government’s approach of tinkering around the edges has led to many jobs being lost and many businesses in the sector burning through cash reserves daily. But we digress. The skies are reopening, although more slowly in the UK than in the rest of the world, and we now need to ensure that the sector is able to recover and support itself again. It is absolutely crucial that we protect what we have.



[Mike Kane]

Slot rules are important in ensuring competition for routes, and in turn give passengers more choice and can lead to better fares for them. Smaller regional airports that do not have incumbent carriers are often able to make slots available for airlines, particularly new entrants to the market, offering good deals for travellers and allowing the regions to open themselves to new visitors and opening the rest of the world to those living in our regions. It should be a win-win situation, but that is currently not the case for all airports and operators.

The advisory note to the SI talks about a consultation that took place over a four-week period between November and December last year. However, three weeks into that consultation the rules changed again and the industry once again plunged into confusion with travellers and industry not knowing where the goalposts had moved to and when or if they would move again. That uncertainty led to bookings dropping off a cliff for the Christmas period. It is not acceptable for that to keep happening to the third biggest aviation sector in the world. We need more certainty in the future.

At the time when passengers were unable to fly without expensive testing and potentially expensive quarantine to follow it was nonsensical for almost empty flights to take off to satisfy grandfather rights to slots. We have seen recent news reports stating that airlines have operated thousands of ghost flights from UK airports during the pandemic—32 airports around the UK had flights of less than 10% capacity. An average of 25 such flights operated every single day throughout lockdown, totalling just under 14,500 over an 18 month period. I am aware some of those flights were carrying cargo and some were repatriation flights, but not all, and it would be disingenuous to imply that they were.

We all agree the industry must improve its green credentials, and I have grave concerns that the insistence of using any fixed percentage of slots makes a mockery of that aim, particularly if the process is being used by incumbents to hoard slots and to monopolise routes. When demand was low due to Covid, slot exemptions were the right thing, but now as demand grows again, that prompts the question ‘Should airlines be subject to competition through slots rules?’ Obviously it remains important to provide some consideration for markets that have yet to reopen or are still severely restricted such as east Asia or other long-haul routes.

I undertook some research of my own with the industry and operators, and the findings suggest that slots are still very contentious. Their allocation must be resolved in an equitable way that enables operators to recover while remaining committed to a green recovery. The environmental impact of those ghost flights is something which concerns me gravely and will continue to do so. By reducing the 80:20 rule by just 10% to 70:30, the Government could still be complicit in multiple flights taking off with many empty seats, seats that could have been sold at a reduced price at least to ensure that UK residents get some benefit from those tens of thousands of empty seats.

The last time we debated this matter I asked the Minister whether the Government would be dynamic and responsive enough to reassess the situation as the skies reopen and received assurances that there would be flexibility. I trust that is still the case. Another ask we have is that Government commit fully to funding the

airspace modernisation scheme. A one-year commitment cannot really be classed as a commitment when it comes to doing something so vital that would reduce the need for stacking, enable point to point operations and increase capacity in our system. Indeed, that lack of ongoing commitment could be classed as further tinkering around the edges. What the industry needs is commitment to it, to show it that despite being left for almost two years without a sector-specific deal it is not treated as an afterthought by the Government.

The Opposition have been broadly supportive of a slot ratio and will continue to be so, but we have slots because of our lack of runway capacity and airports. That has not been addressed. The Prime Minister has tinkered around the edges, both in his current role and as Mayor of London, without addressing that fundamental problem, and it is one that our competitors are addressing. It would be great to resolve the issue of slots permanently and equitably, and move forward to a greener, cleaner strategy, but that is not for us today.

**Kevin Brennan** (Cardiff West) (Lab): My hon. Friend is absolutely right that the terms of the instrument only apply temporarily until 29 October 2022. That is why the Government say that they have not prepared a full impact assessment of the SI. May I ask the Minister through my hon. Friend to clarify what will happen after 29 October 2022? Will we simply revert to the previous position? If a new permanent regime is proposed, will the Minister commit to providing the House with a full impact assessment?

**Mike Kane:** I note my hon. Friend’s points and I will leave the Minister to respond to them.

We are considering this SI in a liberal democracy in which I can directly ask the Minister questions and hold him to account. Not all countries can do that today. I want the Minister and the House to know that the Opposition support the decision of the Secretary of State for Transport to ground Aeroflot and to ban the use of private Russian jets in this country. Will the Minister think of further ways in which we can do more? I note the article in today’s edition of *The Times* that speaks of banning Russian ships and cargo vessels from entering any UK ports. We will not have any truck with this dictator, Putin. Our quarrel is not with the Russian people, but with their current leader.

9.45 am

**Robert Courts:** I thank the hon. Members for Gordon and for Wythenshawe and Sale for their comments. I also wish the hon. Member for Cardiff West, and all hon. Members, a happy St. David’s day. I agree with the comments of the hon. Member for Wythenshawe and Sale about Putin and Ukraine. We have taken action quickly in the Department for Transport on aviation and maritime issues, and we will of course look to do more if that is possible. I could not agree more passionately with his comments that the most precious thing that we have is the ability to sit together in this House where a Minister proposes a law, hon. Members disagree or agree, as they wish, and they can ask any question without fear of any consequences or reprisals. We are very lucky to live in such a free country. I will continue to do anything I can from my perspective, as will my right hon. Friend the Secretary of State, to support the Ukrainian people in their hour of trial.

I am grateful to the hon. Members for Gordon and for Wythenshawe and Sale for their broad support of the SI. I particularly liked the phrase about clutch plates cited by the hon. Member for Gordon; that is quite a good way of phrasing the balancing act of moving back towards the normal slot alleviation position. We have moved the industry back to what is closer to normal times, which the hon. Member for Wythenshawe and Sale described as getting the skies reopening. How welcome it is that we are getting to that position.

The hon. Member for Wythenshawe and Sale asked about consultation, the rule change midway through that period and certainty. We have committed to introducing a playbook that will provide certainty for the industry, so that it will understand what we are likely to do were a variant or worse arise in the future. We are working on that in consultation with the industry. It aims to give precisely the certainty that he wishes to offer to the sector. There is no getting away from the fact that the action that we have had to take, often with very little notice, has been very difficult for the industry. We all understand the reasons, and I know that hon. Members understand and support the fact that we have to support public health, but none the less, there is no hiding from the fact that it has been very difficult for the industry. We are keen to alleviate those difficulties in whatever way possible. I believe that the playbook is the answer to that, and we will continue to look at that.

The hon. Gentleman also asked me about ongoing restrictions in other parts of the world. We are lucky that we are in many cases exceeding the progress of other countries, some are still restricted and quite locked down. That means that we can be quite forward looking and forward leaning in the measures we are taking. We have to remember, however, that in some cases carriers may be operating to markets that do not have those restrictions. That is why we have introduced in the SI the enhanced justified non-utilisation provisions, which address precisely the point that the hon. Gentleman quite rightly raised.

The hon. Gentleman also asked about the funding for airspace, and I entirely agree about the requirement for airspace modernisation. It is something about which the Government feel very strongly. We have airspace that has not changed since the 1950s and it is something that we discussed during the passage of ATMUA. For all the reasons he rightly cited, namely, improving navigation capability, reducing emissions and making the best use of airspace, it is something that we are determined to pursue. The usual principle is that the user pays for such work, but we have introduced two tranches of funding to assist the industry while it has been undertaking that work in the most difficult of conditions.

The hon. Member for Cardiff West asked me what happens after this period, and the short answer is that it depends on what happens with demand. The alleviation that we introducing depends on the Secretary of State being satisfied that there is a restricted demand due to covid-19 and that that is likely to persist. At present, I cannot give a definite answer because I simply do not know anymore than any else what the position in a few months' time will be. We will have to continue to look at the circumstances. The alleviation positions are meant to be temporary, so it might be the case that we go back to the normal rule, and the provisions fall away and are not replaced, or we might introduce another package. That is the short answer.

The hon. Member for Cardiff West also asked me about longer-term reform. As the hon. Member for Wythenshawe and Sale also mentioned, slot reform is a major issue. As I have said before, we are working on our framework for the future of the sector—an aviation strategy for want of a better phrase—and that will consider the issue of longer-term slot reform. That is a major piece of work that will require significant consultation, and there will be a chance for us to discuss it with the industry and hon. Members in due course. I cannot go into too much detail about that now because it is a major piece of work, and I would probably be out of order in any event, but that is the approach we will take to longer-term slot issues, which may have been the answer to hon. Member for Cardiff West.

**Kevin Brennan:** I know why Government do not want to go preparing impact assessments on every single thing they do, particularly when it is a temporary measure, but the Government could monitor the impact of the changes. If the Government are planning longer-term reform, they should commit to making sure that a proper impact assessment is then done so that the House has a real understanding of the likely impact.

**Robert Courts:** I am grateful to hon. Gentleman for clarifying that. He is quite right that because the SI relates to short-term, six-month provisions, a formal impact assessment has not been made. That does not mean, of course, that we do not look at that impact but just that a formal impact assessment notice is not prepared. We consult, however, and then a note on impact is prepared for Ministers. Anything that is longer term and permanent would be subject to the usual consultation and impact assessment provisions, as the hon. Gentleman would expect.

On the issue of ghost flights and the press reportage we have seen, the hon. Member for Wythenshawe and Sale is right that nobody wants to see such flights. They are an unnecessary expenditure of money and of carbon emissions. The press reports have perhaps given the wrong impression, and I should like to explain why briefly, if I may. That is on the back of a written question asked by the hon. Member for Leeds North West (Alex Sobel). In response we published some statistics—they are before the House because it was written answer—that show the rise and fall of departing airlines. The reason some reportage is misleading is that for the data period for which we have statistics available at the moment, the alleviation in place was a full waiver. That means there was not a requirement to fly any slots at all. We do not hold the data on why an airline flies a flight. It is not really possible for the Department for Transport to hold that, and it is a commercial decision for airlines in any event. However, the reasons for flights to which the hon. Member for Wythenshawe and Sale referred are absolutely right, because in many cases those flights would have been carrying back personal protective equipment, testing kits or essential freight. That would be taking place on passenger aircraft, even if there were a small number of passengers on board.

The second reason for such flights was repatriation. On looking at the data, there are two particular spikes in March and September, when people were brought back from abroad as rules changed. Clearly, in order for a person to be brought back, they have to have an aircraft to do that, and that aircraft has to go there.

*[Robert Courts]*

Although I do not have the full data and therefore I cannot say with cast-iron certainty why the flights were being flown, I point to the overriding principle, namely, there was no need for any operator to fly for the purpose of retaining a slot, because a full alleviation was in place at the time. I would observe that there are some understandable principles in place that will explain why those flights operated with low utilisation of passengers at the time. Essentially, they were carrying cargo. I hope that that answers the points quite rightly raised by the hon. Member for Wythenshawe and Sale.

We have a balanced set of measures before the Committee. Without them, we would have a return to the 80:20 rule and I do not think that would be right at the present time. We still need some relief available while the sector recovers, but we also need a balance to ensure that we support recovery at the same time. I hope very much that the Committee can support the regulations.

*Question put and agreed to.*

9.56 am

*Committee rose.*