EXPLANATORY MEMORANDUM TO

THE AIR TRAFFIC MANAGEMENT (REGULATION (EU) NO. 716/2014) (AMENDMENT) REGULATIONS 2022

2022 No. 211

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument updates the retained European Union (EU) regulation (known as the Pilot Common Project or PCP) which mandates the rollout and standardisation of various Air Traffic Management (ATM) technologies at the UK's larger airports and NATS (the UK's main provider of air traffic services). It will amend the implementation dates to take into account the effects of COVID-19 on the industry.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom (UK).

4.2 The territorial application of this instrument is the UK.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The PCP refers to Commission Implementing Regulation (EU) No 716/2014 of 27 June 2014, on the establishment of the Pilot Common Project supporting the implementation of the European Air Traffic Management Master Plan.

6.2 The PCP mandates technology roll out across different areas of ATM with specific implementation dates, which apply to the UK's largest airports (Heathrow, Gatwick, Stansted and Manchester), and NATS. This regulation became retained EU law at the end of the transition period. The power to regulate PCP has transferred to the Secretary of State by regulation 36 of the Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019. Relatively few amendments were made to the Annex as it is predominantly a technical annex which describes the functionalities of the ATM system, however, regulation 341(11) of the Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019 omits the provisions concerning the application of network collaborative management as any continuation of the UK's participation would require new arrangements between the UK and EU.

6.3 Following consultation with a targeted group of stakeholders in the aviation industry, the current dates which mandate the rollout and standardisation of various ATM technologies are now considered undeliverable by the UK's operators, due to the impacts of the COVID-19 pandemic.

6.4 The implementation and target deployment dates for the following ATM systems are therefore amended to accommodate delays arising as a consequence of the spread of the coronavirus disease:

- Extended Arrival Management and Performance Based Navigation in the High Density Terminal Manoeuvring Areas,
- Departure Management Synchronised with Pre-departure sequencing,
- Departure Management integrating Surface Management Constraints,
- Time-Based Separation for Final Approach,
- Automated Assistance to Controller for Surface Movement Planning and Routing,
- Airport Safety Nets,
- Free Routing Airspace,
- Initial System Wide Information Management, and
- Initial Trajectory Information Sharing.

6.5 Following the success of the PCP, the EU Commission undertook a consultation on the replacement of the PCP regulation with the operational stakeholders from 2017 to 2020. A public consultation was subsequently launched in August 2020. The new EU legislation, Commission Implementing Regulation (EU) 2021/116 on the establishment of the Common Project One (CP1), amending Commission Implementing Regulation (EU) No 409/2013 and repealing Commission Implementing Regulation (EU) No 716/2014 entered into force and was appliable in February 2021. CP1 has updated some of the initiatives and amended most of the implementation dates for the EU, taking into account the impact of the coronavirus disease on implementation timelines. As CP1 was adopted after the transition period, it did not form part of the retained EU law under the European Union (Withdrawal) Act 2018.

7. Policy background

What is being done and why?

7.1 ATM is an essential and integral part of European air transport. The European Commission launched the Single European Sky (SES) initiative in 2000 with the aim to restructure European airspace to reduce fragmentation and create additional capacity to increase the overall efficiency of the ATM system. The first legislative package of the SES was adopted in 2004.

7.2 The SES ATM Research (SESAR) programme manages the technological dimension of the SES. During its initial definition phase (2006-2008), it delivered the first version of the ATM Master Plan for the next generation of ATM systems up to 2020 and beyond.

7.3 The PCP, as part of the ATM Master plan, identifies the operational changes required stemming from the ATM Master Plan where it sets out the ATM functionalities to be deployed. Regulation (EU) No 716/2014 became retained EU law at the end of the

transition period. The EU's revised version, Regulation (EU) No 2021/116 with its amended implementation dates, was adopted after the end of the transition period.

7.4 Meanwhile, the UK's operators have had substantial impact from the coronavirus disease which means that most of the implementation dates are now not achievable. It is therefore considered necessary to amend the implementation dates in the UK's retained PCP to avoid the risk of service providers being non-compliant with UK law as well as not being put at a competitive disadvantage relative to their EU counterparts.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no current plans to consolidate the legislation covered by this instrument.

10. Consultation outcome

10.1 The Department for Transport consulted with a targeted group of stakeholders in the aviation industry from April to November 2021 to understand their views on the possible changes to the retained PCP regulation.

10.2 This was to ensure the UK airspace was regulated appropriately and remained interoperable with the EU. We set a number of specific questions and also asked the operators for any other comments that they might have.

10.3 The Department for Transport received responses from the operators, including airlines, airports and trade bodies. The majority of respondents agreed that while the initiatives in the retained EU regulations were still appropriate, the delivery dates were not achievable and should be delayed. Some respondents also felt that there was an opportunity to review the initiatives with the wider Airspace Modernisation Strategy.

10.4 However, following subsequent discussions with the industry, it has been decided that a further consultation to change the initiatives and bring them under the umbrella of the UK's Airspace Modernisation Strategy will be carried out at a later stage.

11. Guidance

11.1 The Department for Transport is not producing any specific guidance on the amendments provided for in this instrument.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. The measure applies solely to 4 major UK airports and the regulated monopoly, NATS, and is not expected to affect their costs. There is a possibility that the revised implementation dates will allow for some costs to be delayed, which would lead to a marginal reduction in the present value of costs to business.

12.2 There is no significant impact on the public sector as the amendments are for the operators.

12.3 In line with the Better Regulation Framework, a full Impact Assessment has not been prepared for this instrument because no significant impact on the private or voluntary sectors is foreseen. The net annual direct costs or benefits to business will be less than £5m. The Department for Transport has produced a light-touch assessment in order to verify that the net impact to business is under £5m per year.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to check whether the operators are compliant to the new dates at a later stage.

14.2 The instrument does not include a statutory review clause because the review duty in section 28 of the Small Business, Enterprise and Employment Act 2015 does not apply where the Secretary of State is exercising a power to make regulations under retained direct EU legislation.

15. Contact

15.1 David Lloyd at the Department for Transport (Telephone: 07814 812380 or email: David.Lloyd@dft.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Ian Elston, Deputy Director in the Airports, Infrastructure & Commercial Interventions Directorate at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robert Courts MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.