EXPLANATORY MEMORANDUM TO

THE AIRPORTS SLOT ALLOCATION (AMENDMENT) REGULATIONS 2011

2011 No. 1610

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 During the London 2012 Olympics there is expected to be a significant increase in flights to the South East of England, as spectators, official guests and the 'Games Family' travel to the Games. In order to cope with the increased demand there will be a temporary extension of airport slot coordination for the period of the Games. This instrument provides the Secretary of State with powers to ensure that the temporary extension of airport coordination for the period of the Olympics will operate effectively to reduce the potential for disruption to air services that would result in substantial delays to passengers and costs to airline and airport businesses.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Under Council Regulation (EEC) No 95/93 of 18 January 1993 ("the Council Regulation") on common rules for the allocation of slots at Community airports, highly congested airports can be designated as 'coordinated' by the Member State. A coordinated airport must appoint a coordinator to allocate slots at that airport. A slot is defined as 'the scheduled time of arrival or departure available or allocated to an aircraft movement on a specific date at an airport coordinated'. The coordination of an airport is intended to ensure that the maximum possible number of flights can be accommodated by that airport and the airspace by ensuring that flights are planned well in advance. The Council Regulation was implemented by the Airports Slot Regulations 1993 (SI 1993/1067), which were revoked and replaced by the Airports Slot Allocation Regulations 2006 (SI 2006/2665).

4.2 Airport coordination is limited by the Council Regulation to circumstances where capacity problems occur for at least one scheduling period and certain conditions are met (Article 3(5)). By way of derogation, paragraph 6 of Article 3 allows Member States to designate airports as coordinated in exceptional circumstances. This is the provision on which the Airport Slot Allocation (Amendment) Regulations 2011 rely in order to make amendments to SI 2006/2665 to allow for the unique challenges to capacity presented by the Olympic Games 2012. This instrument will cease to have effect on 31 December 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 There are currently five coordinated airports in the UK: Heathrow Airport, Gatwick Airport, Stansted Airport, London City Airport and Manchester Airport. All other airports operate their own systems for booking flight times with aircraft operators. In normal circumstances this is workable as the airports are not severely congested, and so delays do not cause significant disruption. However due to the ad-hoc nature of the uncoordinated airports' flight bookings, airports will not be able to use maximum available capacity. Such airports would be subject to significant risk of disruption and flight delays during the period of the Olympic Games. There would also be a risk that uncoordinated airports would accept flight bookings which would be unmanageable in the available airspace capacity.

7.2 The Department for Transport commissioned the 'Air Traffic Review and Airport Capacity Assessment Associated with the London 2012 Olympics and Paralympics', which was completed by Atkins Global in 2010. The report recommended that airports in the South East of England should be coordinated for the period of the Olympics in order to cope with the increased demand.

7.3 This instrument provides the Secretary of State for Transport with additional powers to ensure that the temporary extension of coordination to approximately 36 extra airports successfully achieves its objective of avoiding passenger delays and costs to businesses by accommodating the increased demand for flights, whilst protecting existing air services. Specifically the instrument:

- Provides the Secretary of State with the power to appoint a coordinator to all temporarily coordinated airports. Airport Coordination Limited is the only approved coordinator in the UK.

- Allows the Secretary of State for Transport to modify the individual capacity declarations (coordination parameters) of temporarily coordinated airports. Normally, the managing body of a coordinated airport determines the parameters for slot allocation at that airport. This power would be used as a last resort, as it is anticipated that such matters would be resolved through the coordination committee in the usual way.

- Allows the Secretary of State to establish and maintain a coordination committee in respect of each newly coordinated airport to provide a consistent and harmonised approach across all of the temporarily coordinated airports. For newly coordinated airports this will facilitate the process of declaring individual airport capacities by allowing integrated discussion. Existing coordination committees will continue as usual, although representatives from Heathrow Airport, Gatwick Airport, Stansted Airport and London City Airport will be entitled to participate in the committee pertaining to each newly coordinated airport.

- Allows the coordinator to charge a fee to airports temporarily coordinated because of the Olympic Games, as well as Heathrow Airport, Gatwick Airport, Stansted Airport and London City Airport. This will allow the costs of temporary coordination to be split between the airports, based on the number of coordinated slots flown. Airports would only pay for the slots that they use between the period 21st July and 15th August 2012. This measure is necessary to allow the coordinator to recover the costs incurred as a consequence of the exercise of its functions in connection with the Olympic Games. Heathrow Airport, Gatwick Airport, Stansted Airport and London City Airport are included in the charging regime because although they are already coordinated, the coordinator will be providing an extra service in relation to those airports. The temporary coordination benefits these airports because it will protect business as usual and minimise the likelihood of delays.

Consolidation

7.4 This instrument makes temporary amendments to the Airports Slot Allocation Regulations 2006 (S.I 2006/2665), and will cease to have effect on 31 December 2012.

8. Consultation outcome

8.1 A targeted consultation on the proposal to temporarily extend airport coordination for the period of the Games took place between 24 November 2010 and 7 January 2011. The consultation was targeted at airport operators and the business users of airports in the South East of England. There was overwhelming support for the temporary extension of coordination to airports in the South East of England.

8.2 On the question of whether the Secretary of State should be given the power to amend capacity declarations of airports, there was strong support for the proposal, although some respondents requested that this measure should be used as a last resort.

8.3 There was support for the proposal to establish one coordination committee pertaining to each temporarily coordinated airport, and suggestions that the existing committees at Heathrow, Stansted, Gatwick and London City airports should all continue to operate in parallel. It was agreed that the existing committees would continue to function, and would also be represented on the coordination committee.

8.4 There was little agreement from respondents on how the coordinator's costs should be recovered. Whilst some accepted that the costs should be borne by all airports included in the scheme, others suggested that Government or the Olympics Delivery Authority should pay. As a result a fee structure has been devised that ensures that fees are split between the temporarily coordinated airports and Heathrow Airport, Gatwick Airport, Stansted Airport and London City Airport, based on the number of coordinated slots they use.

8.5 The results of the first targeted consultation and the Government's decisions in light of the responses was distributed as a second targeted consultation together with an amended list of airports to be included in the temporary coordination, and a draft of this instrument. The second targeted consultation was open for comments between 31 March 2011 and 29 April 2011. The majority of comments received were around the dates when slot booking schedules would open. These comments will be considered when the final decision is made on slot booking dates.

9. Guidance

9.1 Formal guidance is not considered necessary. ACL will discuss coordination parameters with the airports concerned and will provide training on the use of slot booking software. Coordination committee meetings will provide an opportunity for airports to discuss any issues that might arise and allow for common solutions to be found.

10. Impact

10.1 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk. The Impact Assessment has not been reviewed by the Regulatory Policy Committee because the instrument is of temporary duration and relates only to the Olympic Games.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the fee structure for airports to pay the coordinator for the provision of coordination services has been devised so that small airports are not disproportionately burdened. Airports will pay a fee for each take-off or landing requiring a slot. This fee has been estimated to be between £0.46 and £1.46 per flight. A smaller airport using fewer slots will therefore be charged less in total than a larger airport using a higher number of slots.

11.3 All airports to be included in the scheme were consulted on the manner by which the coordinator would recover its costs. It was originally proposed that all airports to be temporarily coordinated would be charged an initial flat-rate set up charge, followed by a fee for each slot used. However it was decided that this would prove disproportionately

burdensome on the small airports that might use significantly fewer slots than other airports. It was therefore decided that it would be fairer to split the total cost of the provision of temporary coordination services in proportion to the number of slots used by each airport.

12. Monitoring & review

12.1 After this instrument ceases to have effect on 31 December 2012, a review will be completed as part of a wider assessment of the handling of arrivals and departures for the Games.

13. Contact

13.1 George Clarkson at the Department for Transport Tel: 020 7944 5817 or email: george.clarkson@dft.gsi.gov.uk can answer any queries regarding the instrument.