**EXPLANATORY MEMORANDUM TO**

**THE AVIATION SECURITY (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019**

**2019 No. 547**

## 1. Introduction

This explanatory memorandum has been prepared by the Department for Transport ("the Department") and is laid before Parliament by Act.

## 2. Purpose of the instrument

2.1 This instrument is made under the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") to address failures of retained EU law relating to aviation security in the United Kingdom to operate effectively. This instrument makes provision in respect of one piece of domestic primary legislation, seven EU instruments and Annex XIII to the EEA Agreement, which together comprise the legislative framework governing the regulation of aviation security in the United Kingdom. The corrections are made to ensure that the retained legislation functions correctly as a part of United Kingdom law and in turn ensures continuity in the standards of aviation security.

***Explanations***

*What did any relevant EU law do before exit day?*

2.2 This sets out the baseline aviation security standards which applied in the United Kingdom. These requirements are contained in Regulation 300/2008 and the EU instruments made under it (i.e. Regulations 272/2009, 1254/2009, 72/2010, 2015/1998 and 2019/103, and Commission Decision C(2015)8005; they apply to airports, air carriers and entities which have access to secure areas at airports, and govern matters such as screening of passengers and cargo, access control and vetting of staff who have access to secure areas at airports.

2.3 The Aviation Security Act 1982 was amended on 29 April 2010 to align it with these directly applicable EU requirements. Member States may impose more stringent measures if they consider it necessary, and the United Kingdom has introduced a comprehensive range of such measures using powers contained in the Aviation Security Act 1982.

2.4 The contents of Commission Decision C(2015)8005 are not published, by virtue of provision in Article 18 of Regulation 300/2008. The Decision prescribes detailed requirements which correspond to the detailed requirements set out in Regulation 2015/1998 but which, if published, would compromise the efficacy of the security measures applied at airports (e.g. the detailed specification of screening equipment or the minimum percentage of passengers required to undergo a particular form of screening).

*Why is it being changed?*

2.5 This ensures that that the legal framework has the same practical effect after the United Kingdom has left the EU.

2.6 Regulation 300/2008 and a number of the related EU instruments are being retained in United Kingdom law by virtue of the Withdrawal Act. These Regulations make the necessary changes to remove deficiencies in the retained EU legislation (as well as in respect of two sections of the Aviation Security Act 1982) to ensure that the law continues to operate effectively after the United Kingdom has left the EU. Many of the changes are minor and technical (e.g. to remove redundant references to EU entities and replace these with an equivalent domestic entity); others are required to preserve powers to amend the retained legislation. In all cases, the changes are no more than is appropriate. These Regulations revoke the Decision; it will not be published as retained EU law (see section 6) and no legislative changes may therefore be made to its content (which will instead be applied in the United Kingdom by virtue of directions given under Part II of the Aviation Security Act 1982).

*What will it now do?*

2.6 This instrument keeps the effect of the regulatory framework the same in practice. It does so by ensuring that the retained legislation functions correctly as a part of United Kingdom law. The effect and practical application of the retained legislation is intended to remain unchanged. The deficiencies which this instrument is intended to remove are described in section 7.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

## 4. Extent and Territorial Application

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

4.2 The territorial application of this instrument is the United Kingdom.

## 5. European Convention on Human Rights

5.1 Baroness Sugg, Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:

"In my view the provisions of the Aviation Security (EU Exit) (Amendments etc.) Regulations 2019 are compatible with the Convention rights."

## 6. Legislative Context

6.1 These Regulations are made in exercise of powers in sections 8(1) and 23(1) of the Withdrawal Act to remove deficiencies in retained EU law and so ensure that legislation is operable in the United Kingdom. For this purpose, these Regulations specifically address deficiencies falling within section 8(2)(a), (b), (c), (d) and (g) of the Withdrawal Act. Amongst other things, these Regulations remove provision which has no practical application in relation to the United Kingdom or is otherwise redundant (e.g. references to EU entities such as Member States, EU or the Commission) and reciprocal arrangements which will cease (e.g. parts of the EU wide cargo security regime).

6.2 The Withdrawal Act makes provision for repealing the European Communities Act 1972 and will preserve EU law, as it stands at the moment of exit, in United Kingdom law. It enables the creation of a new body of domestic legislation by bringing the texts of directly applicable EU legislation into domestic law, as well as saving EU-derived domestic legislation which was made to implement the United Kingdom's obligations as a member of the EU.

6.3 The Withdrawal Act also contains a temporary power to make secondary legislation to enable Ministers and the devolved administrations to correct legislation that would no longer operate appropriately once the United Kingdom has left the EU, so that the domestic legal system continues to function correctly outside the EU.

6.4 Regulation 300/2008 and the EU instruments made under it set out the aviation security requirements applying in the United Kingdom. Their content will be retained in United Kingdom law by virtue of the Withdrawal Act. This instrument makes the appropriate changes to the retained versions of Regulation 300/2008 and related EU instruments, as well as a minor amendment to the Aviation Security Act 1982. In doing so, this instrument makes provision in relation to powers in Regulation 300/2008 (e.g. to amend detailed aviation security requirements) so as to confer these powers on the Secretary of State. In certain cases, the exercise of these powers is subject to the affirmative resolution procedure where it is considered that greater Parliamentary scrutiny is appropriate.

6.5. This instrument revokes Regulation 2019/103, which amends Regulation 2015/1998. Most of these amendments apply on 1 February 2019 and as such are dealt with in the provision made by this instrument in respect of Regulation 2015/1998. Some of the amendments made by Regulation 2019/103 (points 2, 20, 25, 26, 28 to 38, 44 and 45 of the Annex to this Regulation), however, do not apply until 31 December 2020. Consequently, those amendments do not by virtue of section 3(3) of the Withdrawal Act form part of retained EU law and it is not therefore necessary for these Regulations to correct them. Instead, this instrument revokes Regulation 2019/103 because Article 2 of that Regulation would be applicable at exit day (and therefore retained in domestic law) but would be redundant as it refers to commencement of provisions that are not retained in domestic law.

6.6 This instrument revokes Commission Decision C(2015) 8005. Given the sensitivity of the information contained in the Decision, it is not published by the Commission by virtue of power in Regulation 300/2008. The Decision will not, therefore, be published on exit day in accordance with paragraph 1 of Schedule 5 to the Withdrawal Act and for this reason cannot be the subject of provision made under section 8 of that Withdrawal Act.

## 7. Policy background

***What is being done and why?***

7.1 This instrument corrects deficiencies in Regulation 300/2008 and EU instruments made under it as retained in domestic law by the Withdrawal Act, as well as making some corrections to the Aviation Security Act 1982. The objective is to preserve the effect of EU aviation security legislation in United Kingdom law by adopting the provisions of Regulation 300/2008 and much of its subsidiary legislation. The amendments to correct specific inoperabilities are described in detail below. This instrument mainly makes minor and technical amendments to the retained EU law

throughout to remove or replace references to entities such as the Commission, the EU, the Union and Member States with references to their United Kingdom equivalent entities such as the United Kingdom or the Secretary of State as appropriate. However, more substantive changes are necessary to address inoperabilities caused by the requirement to introduce a new United Kingdom regime on the security of incoming air cargo, since the United Kingdom will no longer be a part of the existing EU ACC3 secure cargo regime (see further detail below).

*The Aviation Security Act 1982*

7.2 Regulation 2 of this instrument amends the Aviation Security Act 1982 to remove all provision in relation to Commission Inspections. The Commission currently undertakes regular inspections of Member State airports and Appropriate Authorities (the entities responsible for overseeing compliance with the aviation security regimes), identifying deficiencies in the security regime, making recommendations for improvements and, in extreme cases, imposing sanctions. Normally, two United Kingdom airports a year are subject to such inspections, and the United Kingdom 'Appropriate Authority' (the Secretary of State, assisted by the Civil Aviation Authority) is inspected once every three years. These inspections will not take place after exit day, since the United Kingdom will no longer be part of the EU. The Civil Aviation Authority will continue to assist the Secretary of State by carrying out inspections of United Kingdom airports to ensure compliance with aviation security regulations.

*Regulation 300/2008*

7.3 Regulations 3 to 40 of this instrument amend the retained version of Regulation 300/2008, the framework Regulation which sets out minimum aviation security requirements applying at EU airports ("the basic standards"). The amendments limit its scope to the United Kingdom, remove provisions which will no longer apply to the United Kingdom, and replace legislative powers exercisable by the Commission or Member States with regulation making powers exercisable by the Secretary of State. The salient provisions are:

(a) Regulation 6 amends Article 2 so as to limit the scope of Regulation 300/2008 to the United Kingdom.

(b) Regulation 8 amends Article 4 so as to replace legislative powers exercisable by the Commission with regulation making powers exercisable by the Secretary of State in respect of the basic standards of aviation security and to set criteria to permit derogation from these standards and adopt alternative measures. Regulation 19 inserts new Article 15A into Regulation 300/2008 to make provision for the Parliamentary procedure to which the new regulation making powers are subject. The specific measures that fall within the scope of these powers are addressed in relation to the EU instruments are described below.

(c) Regulation 9 amends Article 5 so as to transfer powers to the Secretary of State to determine the responsibility for covering the costs of aviation security functions.

(d) Regulation 10 amends Article 6 so as to transfer powers to the Secretary of State to apply More Stringent Measures, where it is necessary to impose these due to a new, specific aviation security threat. The United Kingdom already imposes a number of security measures which are in addition to the EU 'baseline'

measures contained in the EU regulatory framework. These additional measures result from risk assessments which are based on the current threat picture in the United Kingdom.

(e) Regulation 11 omits Article 7 (which concerns notification to the Commission of measures required by Third Countries) and Article 8 (which concerns co-operation between the Commission and ICAO) because these provisions have become redundant.

(f) Regulation 12 amends Article 9 so as to designate the Secretary of State as the Appropriate Authority for the purpose of the United Kingdom aviation security regime. Under EU Regulations, the Appropriate Authority is the body which regulates and enforces aviation security policy within a Member State. In the United Kingdom, the Appropriate Authority is currently the Secretary of State.

(g) Regulations 13 and 14 amend Articles 10 and 11 so as to transfer to the Secretary of State responsibility for drawing up a National Aviation Security Programme and a National Quality Control Programme respectively.

(h) Regulation 16 amends Article 13 so as to reflect the fact that it is currently the Civil Aviation Authority, and not the Secretary of State, which grants operating licences to United Kingdom registered air carriers and remove the provision for mutual recognition between Member States.

(i) Regulation 18 amends Article 15 so as to transfer responsibility for airport inspections to the Secretary of State.

(j) Regulation 20 omits Articles 16 (Commission annual reports), 17 (Stakeholders' Advisory Group), 18 (Commission dissemination of information), 19 (Commission committee procedure) and 20 (Agreements between the Community and third countries) because these provisions have become redundant.

7.4 Regulation 22 introduces the amendments to Annex I to Regulation 300/2008. The salient amendments are:

(a) Regulation 26 amends point 4.1 so as to omit the automatic exemptions from screening for passengers and their cabin baggage transferring or transiting from other EU Member State airports, or from airports in other countries designated by the EU as being exempt from these requirements. Under the new provisions, exceptions will only apply to passengers arriving from domestic airports or from any other airport designated by the appropriate authority. The United Kingdom already applies "More Stringent Measures" which require that all transfer passengers are rescreened, including those from EU airports, so these amendments reflect the current position.

(b) Regulation 27 amends point 4.2 so as to omit the automatic exemptions from the requirements for departing and arriving passenger not to mix. These exemptions currently apply to passengers transferring or transiting from other EU member State airports or from airports in other countries designated by the EU as being exempt from these requirements. Under the new provisions, exemptions will instead only apply to passengers arriving from domestic

airports or from any other airport designated by the UK appropriate authority, rather than designated by the EU. There will be no practical change for UK airports.

(c) Regulation 28 amends point 5.1 so as to omit the automatic exemptions from hold baggage screening for passengers transferring or transiting from other EU Member State airports or from airports in other countries designated by the EU as being exempt from these requirements. Under the new provisions, exceptions will only apply to the hold baggage of passengers arriving from domestic airports or from any other airport designated by the appropriate authority. The United Kingdom already applies "More Stringent Measures" which require that all transfer baggage is rescreened, including those from EU airports, so these amendments reflect the current position.

7.5 Regulation 30 introduces the amendments to Annex II to Regulation 300/2008 so as to, amongst other things, omit requirements relating to reporting to or sharing information with the Commission.

*Regulation 272/2009*

7.6 Regulations 41 to 46 amend Regulation 272/2009, which supplements the basic standards on civil aviation security laid down in Regulation 300/2008. The salient amendments are:

(a) The descriptions in the Annex to legislative powers to supplement the basic standards by reference to Commission procedures are replaced by reference to United Kingdom Parliamentary procedures.

(b) Part E of the Annex, which outlines the European Commission's criteria for recognising the equivalence of security standards of third countries, is omitted. The concept of equivalence, which applies in a number of contexts in EU aviation security legislation, is explained below.

*Regulation 1254/2009*

7.7 Regulations 47 to 50 amend Regulation 1254/2009 which sets criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (for example, for small airports). The main amendment is to omit the provision which allows Member States receiving flights of 45,500 kilograms or more at derogated airports to require prior notification or a risk assessment. This will be redundant because after the United Kingdom leaves the EU all incoming flights (including those from EU Member States) will be treated as coming from what are currently "Third Countries" .

*Regulation 2015/1998*

7.8 Regulations 51 to 125 amend Regulation 2015/1998 which lays down detailed measures for the implementation of the common basic standards on aviation security. The substantive amendments relate to the content of the Annex to this Regulation. The salient amendments are:

(a) In Chapter 1 of the Annex (see regulation 55), 'Third Country' is redefined as a country other than the United Kingdom, and in determining the areas of the airport required to have a security search, the current exemptions for areas

accessed only by passengers arriving from airports in countries listed in an attachment to the EU Regulation are replaced by exemptions based on passengers arriving from domestic airports or airports in countries listed by the Secretary of State.

(b) In Chapter 3 (see regulation 56), the reference to Attachment 3B, which lists the countries or airports from which arriving aircraft do not require a security search, is replaced by a reference to a list of countries/airports designated by the Secretary of State.

(c) In Chapter 4 (see regulation 57), the duty to inform the Commission of any specific category of passenger with respect to whom passenger or cabin baggage screening requirements are modified is omitted. In addition, Attachment 4B which lists the countries or airports from which arriving passengers and their cabin baggage do not need to be rescreened is omitted.

(d) In Chapter 5 (see regulation 58), the duty to inform the Commission of any specific category of hold baggage with respect to which hold baggage screening requirements are modified is omitted. In addition, Attachment 5A which lists the countries or airports from which arriving passengers' hold baggage does not need to be rescreened is omitted.

(e) Attachments 3B, 4B and 5A referred to above list the countries or airports which are recognised under the EU regime as applying equivalent levels of aviation security standard to the EU aviation security regulations, and where transferring passengers and baggage or arriving flights can therefore be exempted from EU screening requirements. This concept of equivalence is not operable in a United Kingdom-only context, where the United Kingdom applies additional domestic aviation security regulation over and above what is contained in the EU Regulations, but these provisions enable the Appropriate Authority to continue to make risk based assessments on the treatment of transfer passengers and incoming flights.

(f) Chapter 6 (see regulations 59 to 120) is amended to introduce the concept of UK-ACC3[1] to replace the existing EU wide ACC3 scheme. The EU ACC3 scheme is the EU inbound cargo regime, which requires air carriers and their supply chains to hold designations confirming the security standards they apply in order to fly cargo into the EU. Currently, EU Member States share responsibility for overseeing approvals of air cargo carriers, agents and consigners operating from non-EU countries, to ensure that appropriate security measures are in place. Any approvals granted under this regime are recognised in all EU Member States. When the United Kingdom leaves the EU, the default position is that the United Kingdom is no longer part of this regime, so for cargo inbound to the United Kingdom, there needs to be a robust system that replaces the current ACC3 system. Therefore, in order to ensure the continued security of inbound cargo, United Kingdom designations will be required for carriers and entities flying cargo into the United Kingdom following exit from the EU. To minimise any disruption or additional burden on industry, on the first day

[1] ACC3 (Air Cargo Carrier from a third country) is an existing EU system of validating air carriers (and their suppliers and agents) who carry cargo into the EU from EU third countries, in order to ensure a secure supply chain. ACC3s will normally work in conjunction with RA3s and/or KC3s (see below)

after the United Kingdom leaves the EU UK-ACC3, RA3[2], or KC3[3] designations will be issued to all carriers who currently hold an EU ACC3 designation and fly cargo into the United Kingdom, and their supply chains. In order to ensure this flexibility, which is essential to ensure we do not create barriers to international trade, and to facilitate ongoing efforts to minimise the administrative burden on industry, the drafting of this Chapter has been revised accordingly, and these Regulations (specifically regulations 113, 114 and 118 to 120) omit as redundant the documents prescribed by Regulation 2015/1998s which are specific to the EU approval process.

(g) In Chapter 6, the provision which lists countries from whose airports flights are exempted from the ACC3 requirements is replaced by new provision which makes a provision to exempt countries or territories designated by the Secretary of State has having to meet the ACC3 requirements (regulation 82). This will allow the Secretary to State to make provisions to ensure that carriers flying from countries which are currently recognised by the EU as applying sufficient aviation security cargo standards can continue to fly into the United Kingdom after it leaves the EU. As the United Kingdom effectively becomes a 'Third Country' as far as cargo inbound to the EU is concerned, the Commission has publicly stated that it will recognise the 'equivalence' of the United Kingdom security regime and list the United Kingdom as a country from which flights are exempt. This will ensure that cargo can fly from the United Kingdom to the EU without security restriction after the United Kingdom leaves the EU. The United Kingdom likewise intends to exempt EU countries to allow cargo to fly from EU countries into the United Kingdom after it leaves the EU.

(h) In Chapter 8 (see regulation 122), the requirement for regulated suppliers approved in accordance with the Regulation to be recognised in all Member States is omitted.

(i) In Chapter 11 (see regulation 124):

i. the provision for the mutual recognition between Member States of training competences is omitted; and

ii. the reference to the validation report is amended to 'a validation report, where required' to reflect the fact that a validation report would not necessarily be a requirement under the new UK-ACC3 regime.

7.9 Regulations 126 to 128 revoke two EU Regulations and a Commission Decision. Regulation 72/2010 on Commission Inspections from the list of regulations retained in United Kingdom law is omitted because Commission inspections of United Kingdom airports and the United Kingdom appropriate authority will no longer take place in their current form. Regulation 2019/103 and Decision C(8005) 2015 are revoked for the reasons set out in section 6.

[2] RA3 (Regulated Agent from a 3rd Country ) is an air carrier, agent, freight forwarder or any other entity who ensures security controls in respect of cargo or mail; originating from a non-EU country

[3] KC3 (Known Consignor from a 3rd Country) means a consignor who originates cargo or mail from a non-EU country for its own account and whose procedures meet common security rules and standards.

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

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

## 9. Consolidation

9.1 There are no plans to consolidate legislation in this subject area.

## 10. Consultation outcome

10.1 Department for Transport Ministers and officials have regular engagement with the aviation industry, travel industry and consumer representatives. Through specific meetings and workshops on EU Exit, and at long-established stakeholder forums, a number of issues related to the United Kingdom's withdrawal from the EU have been addressed. This includes plans for making secondary legislation to ensure that the statute book continues to function irrespective of the outcome of negotiations. The Department also consulted with members of the National Aviation Security Committee Executive Committee and the Cargo Issues Working Group. These groups include representatives of air carriers, airports, cargo operators and others as well as representative trade associations. The Department also works closely with the CAA on all aviation matters, including preparing for EU Exit, and has consulted the CAA throughout the preparation of this instrument.

## 11. Guidance

11.1 The Department considers that no guidance is required.

## 12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it makes only minor changes to correct deficiencies in retained EU law and its impact on businesses and the public sector is limited.

## 13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses, as we expect this to be minimal.

## 14. Monitoring & review

14.1 The approach to monitoring of this legislation is that it will take place as a part of the ordinary course of the Department's oversight of the legislative framework governing aviation security. This instrument does not make any substantive changes to the

aviation security requirements applying to air carriers, airport operators and other entities which have access to secure areas of airports.

14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

## 15. Contact

15.1 Beth Newing at the Department for Transport Telephone: 07787835605 or email: Beth.Newing@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Gisela Carr at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

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

# Annex

## Statements under the European Union (Withdrawal) Act 2018

## Part 1

### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

| Statement | Where the requirement sits | To whom it applies | What it requires |
|---|---|---|---|
| Sifting | Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7 | Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI | Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees |
| Appropriate-ness | Sub-paragraph (2) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | A statement that the SI does no more than is appropriate. |
| Good Reasons | Sub-paragraph (3) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | Explain the good reasons for making the instrument and that what is being done is a reasonable course of action. |
| Equalities | Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 | Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.<br><br>State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010. |
| Explanations | Sub-paragraph (6) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2<br>In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs | Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law. |
| Criminal offences | Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7 | Ministers of the Crown exercising sections 8(1), 9, and | Set out the 'good reasons' for creating a criminal offence, and the penalty attached. |

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|---|---|---|---|
| | | 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence | |
| Sub-delegation | Paragraph 30, Schedule 7 | Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument. | State why it is appropriate to create such a sub-delegated power. |
| Urgency | Paragraph 34, Schedule 7 | Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7. | Statement of the reasons for the Minister's opinion that the SI is urgent. |
| Explanations where amending regulations under 2(2) ECA 1972 | Paragraph 13, Schedule 8 | Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA | Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law. |
| Scrutiny statement where amending regulations under 2(2) ECA 1972 | Paragraph 16, Schedule 8 | Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA | Statement setting out:<br>a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament,<br>b) containing information about the relevant authority's response to—<br>(i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and<br>(ii) any other representations made to the relevant authority about the published draft instrument, and,<br>c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid. |

# Part 2

## Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

**1. Sifting statement(s)**

1.1 No sifting statement is required as this instrument is subject to approval by each House of Parliament, by virtue of paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018.

**2. Appropriateness statement**

2.1 Baroness Sugg, Parliamentary Under Secretary of State for Transport, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Aviation Security (Amendment etc.) (EU Exit) Regulations 2019 do no more than is appropriate."

2.2 This is the case because: the instrument retains the existing criteria for the regulation and monitoring of aviation security and makes only those changes necessary or appropriate to preserve the legal status quo and to ensure that the United Kingdom continues to apply sufficient standards.

**3. Good reasons**

3.1 Baroness Sugg, Parliamentary Under Secretary of State for Transport, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action."

3.2 These are: legal inoperabilities and deficiencies in the retained direct EU law have been corrected to ensure that the existing regulatory framework for the regulation and monitoring of aviation security remains operable in United Kingdom law following the United Kingdom's withdrawal from the European Union.

**4. Equalities**

4.1 Baroness Sugg, Parliamentary Under Secretary of State for Transport, has made the following statement:

"The Aviation Security (Amendment etc.) (EU Exit) Regulations 2019 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts."

4.2 Baroness Sugg, Parliamentary Under Secretary of State for Transport, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the Aviation Security (Amendment etc.) (EU Exit) Regulations 2019, I, Baroness Sugg, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010."

## 5. Explanations

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.