STATUTORY INSTRUMENTS

2023 No. 1074

RETAINED EU LAW REFORM

CIVIL AVIATION

The Aviation Statistics Regulations 2023

Sift requirements satisfied	*12th September 2023*
Made - - - -	*9th October 2023*
Laid before Parliament	*11th October 2023*
Coming into force - -	*22nd November 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 11(1) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023 ("the 2023 Act")(**a**).

The Secretary of State is a relevant national authority for the purposes of section 11(1) of the 2023 Act(**b**).

The requirements of paragraph 6(2) of Schedule 5 to the 2023 Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1
INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Aviation Statistics Regulations 2023.

(2) These Regulations come into force on 22nd November 2023.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation and exercise of functions

2.—(1) In these Regulations—

(**a**) 2023 c. 28.
(**b**) The term "relevant national authority" is defined in section 21(1) of the Retained EU Law (Revocation and Reform) Act 2023.

"airport" has the meaning given in section 82(1) of the Airports Act 1986(**a**);

"the CAA" means the Civil Aviation Authority;

"CAA member" means a member of the CAA appointed by the Secretary of State under section 2 of the Civil Aviation Act 1982(**b**);

"certificate holder" means the holder of a certificate issued by the CAA under Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency(**c**) and Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council(**d**);

"commercial air services" means air transport flights or series of flights for the public transport of passengers, freight or mail for remuneration or for hire;

"information notice" has the meaning given in regulation 4(1);

"licence holder" means the holder of a licence issued by the CAA under regulation 212 of the Air Navigation Order 2016(**e**);

"Official Record" means a document of that name that is published on the website of the CAA;

"passenger unit" means a unit equivalent to either one passenger or one hundred kilograms of freight and mail;

"penalty notice" has the meaning given in regulation 7(2);

"penalty proposal notice" has the meaning given in regulation 5(1);

"respondent" means the person on whom an information notice is served;

"review notice" has the meaning given in regulation 8(6)(a);

"variation notice" has the meaning given in regulation 6(2).

(2) The functions conferred on the CAA in these Regulations may be exercised on behalf of the CAA only by a CAA employee or a CAA member.

PART 2

COLLECTION OF STATISTICAL INFORMATION BY THE CAA

Obligation to collect information

3.—(1) The CAA must collect information relating to—

(a) the carriage of passengers, freight and mail by commercial air services; and

(b) civil aircraft movements to or from airports operating commercial air services in the United Kingdom.

(2) The information which the CAA must collect is—

(**a**) 1986 c. 31.
(**b**) 1982 c. 16.
(**c**) EUR 2018/1139, amended by S.I. 2019/645.
(**d**) EUR 2014/139, amended by S.I. 2019/645.
(**e**) S.I. 2016/765; relevant amending instruments are S.I. 2017/1112, S.I. 2018/623, S.I. 2019/261, S.I. 2019/645, S.I. 2020/1555 and S.I. 2021/879.

(a) for a category 1 airport the information contained in tables 1 and 2 in paragraph 2 of the Schedule; and

(b) for a category 2 airport the information contained in tables 1 and 3 in paragraph 2 of the Schedule.

(3) In this section—

"category 1 airport" means an airport in the United Kingdom which handles between 15,000 and 150,000 passenger units per year;

"category 2 airport" means an airport in the United Kingdom which handles more than 150,000 passenger units per year,

and for any year N an airport is a category 1 airport or a category 2 airport by reference to the lowest number of passenger units it handled in the year N-2, N-1 or N.

Notices to supply information

4.—(1) The CAA may serve a notice on a certificate holder or a licence holder requiring it to supply such information in relation to an airport to the CAA as is specified in the notice, for the purpose of enabling the CAA to comply with its duties under regulations 3(1) and (2) ("an information notice").

(2) The notice—

(a) may require the information to be supplied periodically;

(b) must—

(i) specify the form and manner in which the respondent must supply the information;

(ii) if the CAA requires it to be supplied periodically, specify how frequently the information must be provided; and

(iii) prescribe the time limit by which the information must be supplied.

Failure to provide information

5.—(1) Where the CAA considers that a respondent has failed to comply with an information notice, the CAA may serve on the respondent a further notice ("a penalty proposal notice").

(2) A penalty proposal notice must—

(a) specify the act or omission which the CAA considers constitutes the failure to comply;

(b) state that the CAA proposes to impose a civil penalty;

(c) state the amount of the proposed penalty;

(d) state that the respondent may serve representations on the CAA disputing the alleged failure to comply, or otherwise objecting to the imposition of or amount of the proposed penalty, within a period of 21 days beginning with the day after the day on which the penalty proposal notice is served;

(e) include an explanation of the manner and form in which any representations must be served.

Representations and variation of proposed penalty

6.—(1) If, within a period of 21 days beginning with the day after the day on which a penalty proposal notice is served on a respondent, that respondent serves representations on the CAA in accordance with the penalty proposal notice, the CAA must consider those representations and

decide whether to vary the amount of the proposed penalty under paragraph (2), to withdraw the proposed penalty under paragraph (5), or to impose the proposed penalty under regulation 7(1).

(2) If, following representations made by a respondent in accordance with paragraph (1), it appears to the CAA appropriate to vary the amount of the proposed penalty, the CAA must serve on the respondent a notice about the proposed variation (a "variation notice").

(3) A variation notice must—

(a) refer to the penalty proposal notice and any previous variation notice containing the proposal that is being varied;

(b) state the new proposed amount of the penalty;

(c) state that the respondent may serve representations on the CAA objecting to the new proposed amount of the penalty within a period of 21 days beginning with the day after the day on which the variation notice is served;

(d) include an explanation of the manner and form in which any representations must be served.

(4) If, within a period of 21 days beginning with the day after the day on which a variation notice is served on a respondent, that respondent serves representations on the CAA in accordance with paragraph (3)(d), the CAA must consider those representations and decide whether to vary the amount of the proposed penalty under paragraph (2), to withdraw the proposed penalty under paragraph (5), or to impose the proposed penalty under regulation 7(1).

(5) If the CAA, having served a penalty proposal notice, decides not to impose any penalty, it must withdraw the notice by informing the respondent in writing.

Imposition of penalty

7.—(1) The CAA may impose a penalty on a respondent provided that—

(a) the CAA has served a penalty proposal notice on that respondent;

(b) the amount of the penalty is the amount of which the CAA gave notice in the penalty proposal notice (in cases where there was no variation) or (if applicable) the most recent variation notice;

(c) no representations were served in accordance with regulation 6(1) (in cases where there was no variation) or regulation 6(4) (in cases where a variation notice has been served);

(d) the CAA has considered any representations that the respondent served on it; and

(e) the CAA considers that the respondent has failed to comply with an information notice.

(2) As soon as possible after deciding to impose a penalty under paragraph (1) the CAA must—

(a) serve a notice on the respondent on which the penalty is imposed (a "penalty notice"); and

(b) publish the penalty notice in its Official Record.

(3) A penalty notice must—

(a) state that the CAA has imposed the penalty;

(b) state the amount of the penalty;

(c) specify the act or omission which the CAA has determined constitutes a failure to comply with an information notice; and

(d) specify that the penalty is to be paid within 30 days beginning with the day after the day on which the penalty notice is served;

(e) inform the respondent of the right to serve a request that the decision be retaken by CAA members on behalf of the CAA.

Review of penalties

8.—(1) Where the decision to impose a penalty under regulation 7(1) has been taken by an employee of the CAA, the respondent may request that the decision is retaken by CAA members.

(2) Any request that the decision be retaken must be made by the respondent in writing within 14 days beginning with the day after the date of receipt of the penalty notice.

(3) The respondent may make representations in writing to the CAA members about the decision within 21 days beginning with the day after the date of receipt of the penalty notice or such longer period as the CAA members may determine and communicate to the respondent in writing.

(4) Where a request under paragraph (2) is served—

(a) the penalty notice has no further effect; and

(b) a decision as to whether or not to impose a penalty in the circumstances of the case must be retaken by at least two CAA members who were not involved in the original decision taken by the CAA employee.

(5) The CAA members must consider any representations made in accordance with paragraph (3) and retake the decision by deciding whether or not to impose the penalty.

(6) Where CAA members retake a decision under this regulation, the CAA members must—

(a) serve a notice (a "review notice") setting out the retaken decision and a statement of their reasons on the respondent; and

(b) publish the review notice and the statement of reasons in the CAA's Official Record.

(7) If the decision is to impose the penalty then the review notice must specify that the penalty is to be paid within 30 days beginning with the day after the day on which the review notice is served.

Further provision about penalties

9.—(1) The amount of a penalty imposed on a respondent under regulation 7 or 8 must be such amount as the CAA determines to be—

(a) appropriate, and

(b) proportionate to the breach for which it is imposed.

(2) The maximum amount of the penalty that may be imposed on a respondent in respect of any breach is £5,000.

(3) Paragraphs (4) and (5) apply if all or part of a penalty is not paid within the period specified in the penalty notice or review notice.

(4) The CAA may enforce the unpaid balance of the penalty as a judgment debt due to the CAA from the respondent.

(5) Any sums received by the CAA by way of a penalty under these Regulations must be paid to the Secretary of State.

Service of documents

10.—(1) Anything served on a person under these Regulations must be in writing and may be served by—

(a) delivering it to the person;

(b) leaving it at the person's proper address;

(c) posting it to the person; or

(d) (subject to the conditions in paragraph (3)) electronic communication.

(2) For the purposes of paragraph (1)—

(a) where the person is a body corporate the document may be served on the secretary of that body;

(b) the proper address of any person is, in the case of a body corporate, the registered or principal office of that body or, in any other case, the last known address of the person.

(3) The conditions referred to in paragraph (1)(d) are that—

(a) the person on whom the notice or document is served ("the recipient") has stated a willingness to receive that notice or document, or notices or documents generally, by means of an electronic communication;

(b) the statement has not been withdrawn; and

(c) the notice or document is transmitted to an electronic address specified by the recipient in the statement.

(4) A statement under paragraph (3)(a) may be withdrawn by serving a notice on the person to whom the statement was made.

(5) For the purposes of paragraph (3)—

(a) "electronic address" includes any number or address used for the purposes of receiving electronic communications; and

(b) "electronic communication" means a communication transmitted (whether from one person to another, from one device to another, or from a person to a device or vice versa)—

(i) by means of an electronic communications network; or

(ii) by other means but while in an electronic form.

(6) Anything served by electronic communication is served when it is received.

PART 3
FINAL PROVISIONS

Revocations

11. The following secondary retained EU law is revoked—

(a) Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air(**a**);

(b) Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto(**b**);

(c) Commission Regulation (EU) No 546/2005 of 8 April 2005 adapting Regulation (EC) No 437/2003 of the European Parliament and of the Council as regards the allocation of reporting-country codes and amending Commission Regulation (EC) No 1358/2003 as regards the updating of the list of Community airports(**c**);

(**a**) EUR 2003/437, as amended by S.I. 2019/646.
(**b**) EUR 2003/1358, as amended by S.I. 2019/646.
(**c**) EUR 2005/546.

(d) Commission Regulation (EC) No 158/2007 of 16 February 2007 amending Commission Regulation (EC) No 1358/2003 as regards the list of community airports(**a**);

(e) The Aviation Statistics (Amendment etc.) (EU Exit) Regulations 2019(**b**).

Signed by authority of the Secretary of State for Transport

Vere
Parliamentary Under Secretary of State
Department for Transport

9th October 2023

(**a**) EUR 2007/158.
(**b**) S.I. 2019/646.

SCHEDULE

Regulation 3

Information to be collected

Information Collection Requirements

1. In this Schedule—

"air transport movement" means a landing or take-off of an aircraft engaged in the commercial transport of passengers, freight or mail;

"aircraft movement" means an aircraft landing or take-off at an airport;

"cargo" means freight and mail;

"cargo only movement" means an air transport movement carrying only cargo and associated cargo attendants;

"charter service" means any air transport movement other than a scheduled service;

"commercial aircraft movement" means an aircraft movement for the public transport of passengers, freight or mail for remuneration or for hire;

"domestic service" means a service flown entirely within the United Kingdom, Isle of Man and Channel Islands;

"freight" means property carried on an aircraft excluding mail and passengers' and crews' permitted baggage;

"international service" means a service which is not a domestic service;

"non-commercial aircraft movement" means an aircraft movement which is not a commercial aircraft movement;

"passenger" includes a non-revenue passenger;

"passenger movement" means an air transport movement carrying passengers, with or without cargo;

"scheduled service" means any air transport movement flown according to a published timetable, including those flown according to any published supplement, available for use by the public;

"terminal freight" means freight joining or leaving an aircraft at the airport;

"terminal mail" means mail joining or leaving an aircraft at the airport;

"terminal passenger" means a passenger joining or leaving an aircraft at the airport;

"transit cargo" means cargo arriving at and departing from the airport on the same aircraft or flight number;

"transit cargo movement" means an air transport movement carrying transit cargo only;

"transit freight" means freight arriving at and departing from the airport on the same aircraft or flight number;

"transit mail" means mail arriving at and departing from the airport on the same aircraft or flight number;

"transit passenger" means a passenger who arrives at and departs from the airport on the same aircraft or flight number.

2. The tables referred to in regulation 3(2) are—

Table 1

Annual Airport Summary

Element	***Detail of information to be collected per year***
Commercial Aircraft Movements	Total number of commercial aircraft movements
Non-commercial Aircraft Movements	Total number of non-commercial aircraft movements

Table 2

Annual Airport Air Transport Movement Summary

Element	***Detail of information to be collected per year***
Air Transport Movements	Total number of air transport movements
Terminal Passengers	Total number of terminal passengers
Transit Passengers	Total number of transit passengers
Terminal Freight	Amount of terminal freight in tonnes
Transit Freight	Amount of transit freight in tonnes
Terminal Mail	Amount of terminal mail in tonnes
Transit Mail	Amount of transit mail in tonnes

Table 3

Monthly Airport Air Transport Movements

Element	***Detail of information to be collected per month***
Direction Type	Direction of the movement (arrival or departure) at the airport
Aircraft Type	International Civil Aviation Organization (ICAO) code for the aircraft type that performed the movement
Operator	Operator that performed the movement
Operation Type	Whether the movement was a charter service or a scheduled service
Service Type	Whether the movement was a cargo only movement, a transit cargo movement, or a passenger movement
Origin or Destination	For arrivals the airport the aircraft originated from; for departures the final destination airport of the aircraft
Last or Next Stop	The airport where the aircraft last stopped for arrivals or its next stop for departures

Element	*Detail of information to be collected per month*
Available Seats	Total number of seats available
Domestic Passengers	Total number of terminal passengers for domestic services only
International Passengers	Total number of terminal passengers for international services only
Transit Passengers	Total number of transit passengers
Terminal Freight	Amount of terminal freight in tonnes
Transit Freight	Amount of transit freight in tonnes
Terminal Mail	Amount of terminal mail in tonnes
Transit Mail	Amount of transit mail in tonnes

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations restate Regulation (EC) No 437/2003, Commission Regulation (EC) No 1358/2003 and S.I. 2019/646 which relate to aviation statistics. Regulation (EC) No 437/2003, Commission Regulation (EC) No 1358/2003 and S.I. 2019/646 are secondary retained EU law within the meaning of section 14(2) of the Retained EU Law (Revocation and Reform) Act 2023.

Regulation 3(1) requires the CAA to collect information relating to the carriage of passengers, freight and mail by commercial air services. The CAA must also collect information relating to civil aircraft movements to and from airports operating commercial air services in the United Kingdom.

Regulation 3(2) confirms the information to be collected by the CAA from in relation to category 1 and 2 airports by reference to the Schedule.

Regulation 4 allows the CAA to serve a notice on an airport requiring it to supply such information to the CAA as is specified in the notice, for the purpose of enabling the CAA to comply with its duties under regulations 3(1) and (2).

Regulations 5 to 10 make provision for civil enforcement if an airport fails to comply with a notice served under regulation 4.

Regulation 11 makes provision for the revocation of the specified secondary retained EU law as a consequence of the restatement of this secondary retained EU law.

The Schedule sets out the categories of information to be provided by airports under regulation 3.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

An Explanatory Memorandum is available alongside this instrument on the UK legislation website at www.legislation.gov.uk.

Part 2 requires that notices imposing a penalty be published in the CAA's Official Record. The Official Record is on the CAA's website (www.caa.co.uk), and copies of notices may be downloaded from there. A paper copy of a notice may be requested by writing to the CAA at 11 Westferry Circus, Canary Wharf, London, E14 4 HD.

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