EXPLANATORY MEMORANDUM TO

THE AIR TRAFFIC MANAGEMENT (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The instrument uses powers under the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") to make changes to the EU-derived retained Single European Sky legislation ("the SES Legislation") which arise as a result of the UK leaving the European Union ("the EU"). This will ensure the continuity of a functioning regulatory framework for the Air Traffic Management (ATM) system and the continued provision of Air Navigation Services (ANS) after the UK leaves the EU.

Explanations

What did any relevant EU law do before exit day?

2.2 The SES Legislation supports the EU initiative to enhance air traffic safety standards, contribute to the sustainable development of the ATM system, and improve the efficiency of ANS within the European ATM system. The SES Legislation sets out a regulatory framework to deliver these ambitions as well as a programme to research, develop and deploy new operating concepts and technology, the Single European Sky ATM Research (SESAR) programme. The UK has actively contributed to the development of the Single European Sky and has implemented this legislation.

Why is it being changed?

2.3 The SES Legislation will be retained in UK law by operation of the Withdrawal Act. This instrument makes changes to the retained SES Legislation to ensure that the law continues to operate efficiently after the UK has left the EU.

What will it now do?

2.4 The policy intent in relation to this instrument remains to continue the provision of efficient, safe ANS, to ensure the effective regulation of the UK ATM system, as well as to maintain interoperability between the UK and the EU after the UK exits the EU. This instrument amends deficiencies in retained SES Legislation to produce an operable legislative framework for ATM/ANS within UK law. This instrument addresses areas of legal inoperability by removing roles of EU bodies, functions that cannot be performed by the UK after exit, and provisions where there is already satisfactory UK legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument includes amendments to Regulation (EC) 552/2004[1], which was repealed by Article 139(2) of Regulation (EU) 2018/1139[2], subject to the savings provisions specific to Articles 4, 5, 6, 6a and 7 of, and Annexes 3 and 4 to Regulation (EC) 552/2004. Those saved measures continue to apply until the adoption of delegated acts referred to in Article 47 of Regulation (EU) 2018/1139 insofar as those acts cover the subject matter of the relevant provisions of Regulation (EC) No 552/2004, and in any case not later than 12 September 2023.

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.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the Withdrawal Act), and the territorial application of this instrument is not limited either by the Act or by the instrument.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is to the whole of the UK.

4.2 The territorial application of this instrument is to the whole of the UK.

5. European Convention on Human Rights

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

"In my view the provisions of the Air Traffic Management (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is made in exercise of the powers in sections 8 (dealing with deficiencies arising from withdrawal) and 23 (consequential and transitional provisions) of, and paragraphs 1(1) (scrutiny of regulations) and 21 (scope and nature of powers) of Schedule 7 to, the Withdrawal Act 2018.

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 UK law. It enables the creation of a new body of domestic legislation by bringing the texts of directly applicable EU legislation into domestic legislation, as well as saving EU-derived domestic legislation which was made to implement the UK's obligations as a member of the EU.

[1] Regulation (EC) 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network.

[2] 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, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91.

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

6.4 It is necessary to retain the SES Legislation in UK law in an operable form in order to ensure that the UK's ATM arrangements remain interoperable with the rest of Europe, as well as to ensure an effective regulatory framework for the UK ATM system and certainty for industry.

7. Policy background

What is being done and why?

7.1 The delivery of ANS is vital to ensure that congested airspace can be used safely and efficiently through the separation of aircraft. These services support air traffic growth and if not provided in an efficient way can cause considerable delays to traffic, leading to a lack of capacity for air traffic with resultant costs and disruption to airlines and passengers. States have international obligations to provide ANS, which are largely delivered at a national level, with some co-operation through Eurocontrol[3], an intergovernmental organisation of 41 States across Europe that pre-dates the Single European Sky and is not an EU body. The UK is signatory to the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation ('The Eurocontrol Convention') and as our membership is independent of our EU membership, as such the UK will remain a Eurocontrol member after EU exit.

7.2 The EU Single European Sky programme aims to improve the efficiency of ANS and has introduced a number of regulatory tools which are set out in the sections below to do so. The UK has implemented these tools and will need to ensure that after exit there continues to be an effective legal framework for UK ATM arrangements. The UK will also need to remain interoperable with the EU as UK air traffic will continue to access EU airspace and use ANS of EU Member States and vice versa.

7.3 This instrument addresses a number of legal inoperabilities in the EU SES Legislation. These include a number of powers which have been granted to the European Commission as well as the establishment of several EU bodies with roles under the legislation. Where possible these roles are being transferred to the Secretary of State (SoS) or the Civil Aviation Authority (CAA); but where they relate to pan-European functions including ANS delivered by more than one State they are being removed.

7.4 This instrument makes changes to the retained EU SES Legislation to ensure the UK retains the regulatory tools to ensure the provision and oversight of ANS after the UK leaves the EU. The four basic Single European Sky regulations[4] set out the framework

[3] Eurocontrol is an intergovernmental organisation responsible for running safe, efficient and environmentally-friendly air traffic operations throughout the European region. Eurocontrol has oversight over the ATM network, provides air traffic control services for some EU Member States; handles billing for aviation charges; supports the Commission, EASA and National Supervisory Authorities (NSAs) such as the CAA on regulatory activities; contributes to the SESAR program including contributing to the SJU; and provides civil military coordination.

[4] EU Regulations EC 549/2004 (the framework Regulation), EC 550/2004 (the service provision Regulation), EC 551/2004 (the airspace Regulation), and EC 552/2004 (the interoperability Regulation), which have all been amended by EU Regulation EC 1070/2009.

for the SES and are the basis for a number of Implementing Regulations (IRs) which set out the more detailed requirements.

7.5 The SES Legislation amended by this instrument provide the detailed technical rules on interoperability; the organisation of airspace; safety and oversight of ANS; use of new technology and operational procedures; and a system of performance and economic regulation.

7.6 **Interoperability**: The SES Legislation concerning interoperability sets out the technical measures[5] aimed at ensuring that the European Air Traffic Management Network (EATMN), its constituent parts and associated operating procedures are interoperable across EU Member States. These regulations stem from the fact that prior to SES the delivery of ANS was largely delivered at a State level, and although based on International Civil Aviation Organisation (ICAO) Standards and Recommended Practices (SARPs), service provision was fragmented.

7.7 It is important that these regulations are retained in UK law in an operable form through the Withdrawal Act as many regulations impact directly on how UK ANS are delivered in the UK, including what equipment must be used and what operating procedures must be followed by operational stakeholders. This will also ensure that the UK's ANS arrangements will continue to work with neighbouring EU States at the point of EU exit[6].

7.8 In addition, the UK, as a contracting State of ICAO, remains obliged in international law to implement the applicable ICAO SARPs. Many of the implementing regulations concerning interoperability in the field of ATM/ANS refer to ICAO SARPs, thus regulating how EU States should follow these with some common differences. Therefore it is necessary to retain these regulations to ensure that the UK continues to comply with its obligations to apply the ICAO SARPs.

7.9 The SES interoperability regulations refer to Eurocontrol, an intergovernmental organisation that provides some ANS for its member States[7]. Eurocontrol pre-dates the EU but delivers some ANS to EU States. It is not an EU body but it has been designated as the SES Network Manager[8] and is regulated by the EU where it provides services to EU Member States. The UK will remain a contracting State of Eurocontrol after it leaves the EU and will still be able to receive its services as a contracting party to the Eurocontrol Convention.

7.10 This instrument corrects a number of deficiencies in retained SES Legislation, including making functions carried out by Member States the responsibility of the Secretary of State. For example, in EC Regulation 1032/2006, Member States are

[5] The Interoperability Regulations provide detail on the operational procedures for flight planning; the requirements for ANSPS on the exchange of flight data notifications; protocols and coordination for transferring flights between air traffic control units; and the rules for equipping aircraft to receive.

[6] The systems, post exit, will keep pace with the ICAO SARPs rather than EU legislation, but the EU will be implementing those same SARPs so there will be an element of global consistency, rather than UK being consistent with the EU. The UK may take a different approach to implementing ICAO SARPs compared to the EU, but the two schemes will still have to continue to work together to a degree to achieve the ICAO aims.

[7] For example Eurocontrol provides Flow Management and air traffic control services for the Maastricht Upper Area Control Centre (MUAC).

[8] The Network Manager carries out air traffic management network functions for the European Commission, on behalf of Eurocontrol which was nominated for this task. They were designated as such until 2019 and will continue to do so for the subsequent five years. Working with its stakeholders, the Network Manager develops and runs the European ATM network (covering 43 countries), with the aim of meeting the Single European Sky's performance targets.

responsible for ensuring flight data systems and flight data processes comply with interoperability and performance requirements set out in the regulation. This instrument amends the Member State obligation to make this the responsibility of the Secretary of State.

7.11 **Airspace**: The SES Legislation concerning airspace aims to harmonise arrangements for the management of airspace in the EATMN with the aim of greater coordination and consolidation of the bodies that provide ANS in Member States. To facilitate this the SES Network Manager was established along with the concept of the Functional Airspace Block (FAB). The regulations set out a system to share the airspace reserved for the military with civilian operators when it is not in use for military purposes (Flexible Use of Airspace (FUA)) and arrangements to manage air traffic against available airspace capacity (Air Traffic Flow Management (ATFM)).

7.12 Network Manager: In its role as the designated SES Network Manager, Eurocontrol's functions and services, and the governance arrangements for this role, are set out in an implementing regulation. The roles include the coordination of State airspace design, air traffic flow management and the coordination of scarce resources (transponder code allocations, radio frequencies). These functions pre-date the EU exercising its competence for ANS and the UK would still be able to access Eurocontrol's wider network management role as a contracting State of the Eurocontrol Convention. This instrument will amend the preserved SES Legislation relating to airspace in an operable form, but the UK will be unable to participate in EU governance arrangements of the SES Network Manager.

7.13 Functional Airspace Blocks (FABs): FABs are airspace blocks based on operational requirements, established regardless of State boundaries and are designed to ensure improved capacity and efficiency in ATM and integration of service provision across borders. They were established to facilitate cooperation between Member States on airspace management and the provision of ANS. The UK formed a FAB with the Republic of Ireland in 2009. FABs were established under Regulation EC 550/2004. Regulation EU 176/2011 sets out Member State obligations prior to the establishment or modification of a FAB. Regulation EU 176/2011 sets out the information Member States are required to share with the Commission, the European Aviation Safety Agency (EASA), other Member States and interested parties on the establishment or modification of a FAB.

7.14 The legislation establishing FABs will not be retained in the SES EU Exit Regulations. As a non-Member State after exiting the EU, the UK will have no legal basis to participate in a FAB. Also there is a requirement on other EU States to involve neighbouring third countries in their FABs. Any future involvement by the UK, as a third country, in FABs would be discretionary where airspace the UK is responsible for is proposed to be included in a FAB. Consequently, any such future involvement would be the subject of a new international agreement between the UK and relevant Member States, which would require a national governance process to be followed (i.e. Ministerial approval).

7.15 Flexible Use of Airspace (FUA): Regulation EC 2150/2005 lays down common rules for the flexible use of airspace for SES. This regulation sets out the requirements for airspace reserved for the military to be freed for civil use when not in military use. This means that airspace is no longer deemed to be allocated specifically for either civil or military use but can instead be used flexibly, allocated to either party as necessary. Eurocontrol has been given some roles under the regulation.

7.16 This regulation will be retained after exit so that the UK continues to have a regulatory framework for FUA which is an important tool to ensure the efficient use of airspace. Member States are currently responsible for implementing the regulation, ensuring there is coordination between civil and military authorities and ensuring there is efficient planning and allocation of airspace. Changes will be made in the SI so that the Member State functions in the regulation are retained and instead carried out by the CAA who will now oversee the implementation of the regulation.

7.17 Air Traffic Flow Management (ATFM): ATFM is a service to strategically and tactically manage aircraft flight plans against available airspace capacity. Eurocontrol has developed a system of rules and procedures to provide this service. Eurocontrol provides this service to all of its contracting States (both EU Member States and non-EU Member States), but where the service is provided to EU States it is governed by an EU designation of Eurocontrol as the SES Network Manager and an EU regulation. The UK would continue to be able to receive ATFM services from Eurocontrol as a contracting State of the Eurocontrol Convention. EU Regulation 255/2010 sets out the EU's common rules on ATFM. That Regulation will form part of the retained EU legislation and this instrument will amend that Regulation to ensure that the roles for the European Commission or other Member States are assigned to the CAA or the Secretary of State, as appropriate.

7.18 **ATM Safety**: The SES Legislation relating to safety sets out measures to ensure an effective system of safety oversight for ANS and some standardised rules for operators.

7.19 After the UK leaves the EU, the UK will need to ensure it retains an appropriate regulatory framework to ensure the CAA can continue the effective oversight of ANS providers, and the requirements to ensure the safe, consistent delivery of ANS are clear. The SES Legislation relating to safety forms our current mechanism for this, so that legislation will need to be preserved in UK law in an operable form to maintain continuity in safety. In doing this we are giving some oversight functions to the CAA which were previously for EASA.

7.20 This instrument does not retain Regulation EU 2017/373, the latest regulation for the safety of ANS and their oversight, in its entirety. The Withdrawal Act sets out that EU regulations must be both in force and applicable on exit day in order to qualify to be retained. Only parts of EU Regulation 2017/373 will be both in force and applicable immediately before exit day. Therefore, to prevent a legislative gap, the in force and applicable provisions of Regulation EU 2017/373 will be preserved in UK law, and this instrument will preserve in operable form the existing regulations EU 1034/2011, EU 1035/2011 and EC 482/2008 as they will not be repealed until 2 January 2020; in order to fill any regulatory gap.

7.21 Rules of the Air: This instrument will retain Regulation EU 923/2012 which sets out a harmonised EU approach to the implementation of a number of ICAO annexes and supporting material dealing with ICAO SARPs dealing with rules to access airspace and classification of airspace by the type of air navigation services available. This is necessary as the regulation forms the means for the UK to comply with some of its ICAO obligations.

7.22 **Research and Development (R&D)**: SES Legislation includes a regulatory framework for the development and deployment of new technology and operating concepts. Prior to the introduction of the SESAR programme, research and

development activities were undertaken in a dispersed and uncoordinated manner across the individual EU Member States with some common activity by Eurocontrol.

7.23 SESAR was launched in 2004 with the objective of harmonising these activities, to define, develop and deploy new technologies to increase ATM performance and modernise ATM across Europe. It aims to provide the EU with a high performing ATM infrastructure that will enable the safe and environmentally friendly operation and development of air transport by 2030.

7.24 An ATM Master Plan was developed through a feasibility phase and sets out the target concept for the new ATM systems. The Master Plan received political endorsement via an EU Council of Minister's Decision but needed a programme of R&D to further develop or dismiss the proposed new operating concepts and technology which would need to be deployed to support the new concept of operations.

7.25 In 2007, the SESAR Joint Undertaking (SJU) was set up under a Council Regulation to manage the SESAR R&D programme. The regulation includes the governance, financial and staffing arrangements for the SJU. The SJU was founded by the EU and Eurocontrol and has 19 members from the EU aviation industry including NATS. It is responsible for coordinating and concentrating all ATM relevant research and innovation efforts in the EU and periodically updating the ATM Master Plan to reflect the results of this work. Several SJU members are made up of consortia - and together with their affiliates and sub-contractors - represent approximately 100 organisations actively participating in the SESAR programme across Europe. As The UK will no longer be able to participate in the SJU after leaving the EU the Council Regulation setting up the SJU will be revoked.

7.26 SES Legislation also puts in place a system of "common projects" in order to implement SESAR deployment projects which need coordination between the industries of EU Member States. EU funding is available to incentivise the delivery of these projects. Regulation 409/2013 sets up the arrangements for the governance and funding of these common projects. This regulation will be revoked because the UK cannot legislate for EU organisations and arrangements set up in those Regulations. The UK will, though, retain provisions in Regulation EU 716/2014 which sets up the first common project – the Pilot Common Project (PCP)[9]. Keeping these provisions in an operable form will ensure there is legislation to require UK project participants who have been implementing it since 2014 to complete the delivery of projects which will maintain interoperability with the UK's neighbouring States.

7.27 **Performance and Charging Scheme**: Regulations EU 390/2013 and EU 391/2013 set out the system of performance and economic regulation for en route ANS[10]. Prior to SES the UK had a domestic system of performance and economic regulation under the Transport Act 2000 (TA 2000). This sections of the TA 2000 that set out rules for the UK's economic regulatory regime were not repealed when SES was implemented as it is consistent with the EU scheme and also sets out other UK arrangements for ANS including the licence arrangements for NATS. The EU performance and

[9] The Pilot Common Project (PCP) defines the initiatives which aim to make improvements in the EATMN. The first PCP focuses on six areas and the EU has partnered industry and the SESAR Deployment Manager to implement these measures.

[10] En route ANS refer to the air traffic control services provided to aircraft in a specified region of airspace, as opposed to terminal ANS which are air traffic control services provided to aircraft around aerodromes.

charging scheme is a top-down scheme[11] with numerous roles for the European Commission and its Performance Review Body, as well as a reliance on EU level performance targets. Therefore much of it could not be retained in UK law. Retaining the SES performance and economic regulation provisions alongside the TA 2000 provisions would be likely to cause confusion and require considerable cross-referencing between the two regimes. Also in relation to charging, when the UK leaves the EU it will still have obligations to the Eurocontrol Multilateral Agreement on Route Charges[12] which has international treaty status and sets out obligations for Eurocontrol contracting States in respect to the setting and promulgation of Route Charges. This instrument therefore revokes the SES performance and charging Regulations. The UK will instead revert to the system of economic regulation for en route ANS as set out the TA 2000 which will achieve the same effect as the revoked SES rules and allow the CAA, as the UK's economic aviation regulator, to continue to have an effective framework to regulate the performance of NATS, the UK's current national provider of en route air traffic services under the TA 2000.

7.28 Transitional arrangements are included in the instrument to ensure that EU based certifications and authorisations existing immediately before exit day will be preserved for a maximum two year transitional period subject to any earlier expiry or termination.

7.29 Regulation 394 of the instrument makes a consequential amendment to update references in the Airport Charges (Amendment) (EU Exit) Regulations 2018 so that they refer to the TA 2000 rather than Commission Implementing Regulation (EU) No 391/2013 which is being revoked.

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. The instrument is also made under the section 23(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018. 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 the legislation covered by this instrument.

10. Consultation outcome

10.1 Department for Transport Ministers and officials have regular engagement with the aviation industry, air navigation service providers (ANSPs) and airspace users. Through specific meetings and workshops on EU Exit, and at long-established

[11] Top-down regulation provides a framework where general principles are set out by a centralised authority, and the rules applied to individual cases. For air traffic management, rules and targets are set by the Commission to be implemented by Member States, national supervisory authorities, air navigation service providers and airspace users.

[12] Airspace users which fly in the controlled airspace of Eurocontrol's Member States pay for the air traffic services they use. Eurocontrol's Central Route Charges Office (CRCO) charges airspace users for these services on behalf of the Member States.

stakeholder forums, a number of issues related to the UK'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. There was support amongst stakeholders for continuity in terms of the regulatory framework for ATM after the UK leaves the EU. The Department also works closely with the CAA on all aviation matters, including preparing for EU Exit. The CAA has been consulted throughout the preparation of this statutory instrument and the aviation industry has been informed of the Department's intentions to lay this statutory instrument using powers in the Withdrawal Act to fix deficiencies in retained EU legislation relating to SES. The preparation of the instrument also takes account of representations from operational stakeholders on the impacts of the UK leaving the EU or ATM and ANS including from NATS, the UK's en route air traffic services provider.

11. Guidance

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

11.2 The UK is compliant with or is working towards compliance with the SES Legislation so there should be no unexpected actions for industry and stakeholders arising from the scope of this instrument. The Department has actively engaged the CAA to ensure its views have been reflected in this instrument throughout the drafting process, and taken account of other representations from operational stakeholders including NATS.

12. Impact

12.1 The impact on business, charities or voluntary bodies is limited to minor familiarisation costs as this instrument makes no changes to the policy intent of the EU's SES regulations.

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 the costs and benefits to business are minor. As this instrument is not making any changes to technical requirements, the main costs arising from the SI relate to the need for industry to familiarise themselves with the regulatory regime.

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.

13.3 The basis for the final decision on what action to take to assist small businesses is that the impact on business, charities or voluntary bodies in respect of the changes to the retained SES Regulations are limited to minor familiarisation costs.

14. Monitoring & review

14.1 As this instrument is made under the Withdrawal Act, no review clause is required.

15. Contact

15.1 Michelle Toussaint-Bourne at the Department for Transport Telephone: 07827981283 or email: michelle.toussaint-bourne@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Stephen Hand at the Department for Transport Telephone: 07879 661371 or email: Stephen.hand@dft.gov.uk can be contacted with any queries regarding the instrument.

15.3 Sacha Hatteea at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.4 Baroness Sugg, Parliamentary Under Secretary of State 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. 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 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 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
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: 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, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, 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. Appropriateness statement

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

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

1.2 This is the case because: The changes made by these Regulations to Single European Sky regulatory framework do no more than is strictly necessary to ensure the correct functioning of the retained legislation once the United Kingdom has left the EU. It leaves technical requirements unchanged and only makes changes to the regulatory framework for air traffic management which are necessary for the legislation to operate effectively (such as conferring functions of EU bodies on domestic bodies).

2. Good reasons

2.1 The Parliamentary Under Secretary of State, Baroness Sugg 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".

2.2 These are:

a) Ensuring that there is a clear basis for the continued safe efficient provision of ANS once the United Kingdom has left the EU by ensuring that the retained legislation functions correctly;

b) Enabling the UK to continue to comply with its obligations under the Chicago Convention;

c) Maintaining the existing regulatory framework and technical requirements for air traffic management.

3. Equalities

3.1 The Parliamentary Under Secretary of State, Baroness Sugg has made the following statement(s):

"The draft instrument does 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."

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

"In relation to the draft instrument, 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."

4. Explanations

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